

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-7661

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 75-7661

THOMAS I. FITZGERALD, Public Administrator of the
County of New York, State of New York, as personal
representative of the estate of JACINTO VINCENTE
MEJIA RENTERIA, deceased,

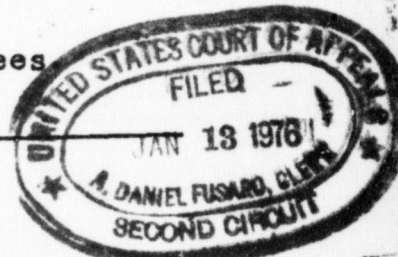
Plaintiff-Appellant,

- against -

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI NAVIGATION CO.,
ZIM ISRAEL NAVIGATION CO. LTD., ZIM LINES AND AMERICAN-
ISRAELI SHIPPING CO., INC.

Defendants- Appellees

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK.



JOINT APPENDIX

THOMAS M. BREEN
Attorney for Plaintiff-
Appellant
160 Broadway
New York, New York 10038
BEekman 3-3740

Submitted By
Plaintiff-Appellant

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CIVIL DOCKET
UNITED STATES DISTRICT COURT

Jury demand date
by Pltff. 7-56-71

71 CIV. 2992

D. C. Form No. 106 Rev.

TITLE OF CASE		ATTORNEYS			
MERCEDES ALBAZ REINTERA, PERSONAL REPRESENTATIVE OF		For plaintiff: JUDGE PALMIERI			
THE ESTATE OF JACINTO VICENTE NEJIA REINTERA, DECEASED,		THOMAS M. GREEN			
Thomas I. Fitzgerald, Public Admr. of the County of NY,		160 Broadway,			
State of NY as personal representative of the Estate of		N.Y.C.N.Y. 10038			
AGAINST, JACINTO VICENTE NEJIA REINTERA					
ZIM ISRAEL NAVIGATION CO.					
ZIM ISRAELI NAVIGATION CO.					
ZIM ISRAEL NAVIGATION CO. LTD.					
ZIM LINES AND					
AMERICAN-ISRAEL SHIPPING CO. INC. 7-3-75					
For defendant:					
Hill Betts & Nash (for Zim Israel Nav. Co. Ltd.)					
26 Broadway N.Y. 10007					
1 WORLD TRADECENTER SUITE 5215					
NEW YORK, N.Y. 10048					
466-4900					
(for American-Israeli Shipping Co., Inc.)					
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed X	Clerk	7/6/71	T. Brea	15-	
		7/9/71	U.S. Tre		15-
J.S. 6 mailed ✓	Marshal				
Basis of Action:	Docket fee				
PER INV. WRONGFUL DEATH, JONES ACT.	Witness fees				
\$85,000.00					
Action arose at:	Depositions				

71 CN. 2992

DATE	PROCEEDINGS	JUDGE PALMIERI	Date Order Judgment No
Jul 6-71	Filed Complaint. Issued Summons.		
Jul 6-71	Filed Notice of Assignment. J. Palmieri		
Jul 26-71	Filed summons with marshal's ret. Served: Zim Israel Nav. Co. by Mr. Glazer, V.P. on 7/6/71.		
	Zim Israeli Navigation Co. " "		
	Zim Lines " "		
	American Israeli Shipping Co. Inc. " "		
Aug. 12-71	Filed stipulation and order extending defendants time to answer to 9/30/71. So ordered. Palmieri, J.		
Aug. 25-71	Filed plttf's interrogs. to defts'		
Sept. 10-71	Filed ANSWER of Zim Israel Nav. Co. Ltd. to complaint.		HEAN
Mar 23-73	Filed Notice of change of atty's address.		
Aug. 6-73	Filed memorandum in opposition to plttf's motion to substitute Public Amr. as plttf.		
Aug. 3-73	Filed plttf's request for production of documents.		
Aug. 7-73	Filed Plttf's affdvt. & notice of motion permitting plttf. to amend complaint- ret. 7-25-73--		
Aug. 7-73	Filed memo endorsed on motion filed 8-7-73--Motion granted, no opposition. Settle order on notice--Palmieri, J.		
Aug. 7-73	Filed memorandum of law in support of motion		
Dec. 4-73	Filed plttf's reply affdvt.		
Dec. 4-73	Filed by plttf consent of Public Administrator to be substituted as party-plttf--		
Dec. 4-73	Filed memo-endorsed on back of plttf's motion. Since Public Adminis- trator consents to substitution & defts cite no authority in opposition to motion, the motion will be allowed and the amend- ment will relate back to the time of filing the complaint..... So Ordered. Palmieri, J.		
an. 22-74	Filed plttf's affdvt. & notice of motion requesting sanctions against defts. for failure to make disclosure under Rule 37--ret. 1-28-74		
an. 22-74	Filed plttf's memorandum of law in support of motion		
Feb. 1-74	Filed affdvt. of John F.X. McKiernan in opposition to plttf's motion		
Feb. 25-74	Filed plttf's reply affdvt.		
Feb. 25-74	Filed MEMO END on plttf's motion filed 1-22-74. Plttf's motion for an order Pursuant to Fed.R. Civ. 37(a): *** Defts. are directed to comply with plttf's demands for disclosure within sixty days from the date of this decision. *** PALMIERI, J. (n/m)		
May 7-74	Filed defts. Zim Israel Navigation and Zim-American-Israeli Answer to plttf's interrogatories.		
June 4-74	Filed plttf's affdvt. & notice of motion to compel defts. to answer interrogs.- ret. 6-14-74		
June 4-74	Filed plttf's memorandum of law.		
May 23, 74	Filed deft's Zim-American Israeli Shipping Co., Inc. answer as American-Israeli Shipping Co., Inc. ANSWER to the Complaint.		HEAN
Jun 18-74	Filed Stipulation & Order extending Plttf's motion for an order compelling the defts to answer interrogs. until Jun 21, 74. So Ordered. Palmieri, J.		
Jun 25-74	Filed Stip. that the plttf's motion for an order compelling the defts to answer inter- rogs is adj. to the 8th day of July, 1974...So Ordered. Palmieri, J.		
Jul 11-74	Filed Stip. & Order extending Plttf's motion for compelling the defts to answer interrogs until July 16-74....Palmieri, J.		
Jul 19-74	Filed Plttf's Notice of taking deposition of Ignacio Ortega.		

//////////continue on page #3

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
Aug 30-74	Filed Order that the depts Zim Israel Nav. Co Ltd & Zim American Israeli Shipping Co, Inc. shallon before 30 days from the entry of this order: serve answers to plttf's Interrogs. ...and that the named defts shall give the following documents & information to the plttf...and that if the defts are unable to comply with respect to this order on items 15-14 & 13 listed in the affidavit of the atty for the plttf dated May 30-74, the attys for the defts will supply information detailing their efforts to comply with this order, without giving the atty for the plttf and opportunity to inspect the originals-at least 10 days before trial of this cation. So Ordered-Palmeri, J. a/n			
Oct. 7-74	Filed Plttf's Notice of taking depositions of Hugo Salazar			
Oct 16-74	Filed Defts. Zim Israel Nav. Co., & Zim-American Israeli Shipping Co., Inc.'s Answer to Plttf's Interrogs.			
Oct 18-74	Filed Deft's interrogs. to plttf.			
Dec 18-74	Filed Plttf's answers to the interrogs of Deft dtd 10-17-74.			
Dec 20-74	Filed Plttf's Subjects for Pre-Trial Conference to be held 12-19-74.			
1-6-75	Filed Plttf's Notice of Taking Deposition of Harvey Krueger, c/o Kuhn Loeb & Co, 40 Wall Street, NYC.			
Jan 14, 75	Filed Deft's Request for Discovery and Inspection of Documents under Rule 34.			
Mar 14-75	Filed Plttf's Affdvt and Notice of Motion for an order permitting the Plttf to amend his complaint. (To be filed)			
Mar 14-75	Filed Plttf's Memorandum of Law.			
Mar 20-75	Filed Deft's Affdvt and Notice of Motion for a order pursuant to Rule 56. of the F.R.Civ.P dismissing this action for failure to state a meritous claim.			
Mar 20-75	Filed Deft's Affdvt and Notice of Motion for an order pursuant to Rule 56. of the F.R.Civ.P dismissing this action 1) for lack of subject matter jurisdiction and 2) as time barred, or in the alternative, 3) for an order pursuant to Rule 12(h) dismissing this action on the ground of forum non conveniens.			
March 20-75	Filed Deft's Memorandum of Law (on two (2)).			
March 25-75	Filed Consent Pre-Trial Order -			
March 27-75	Filed Deft's Memorandum of Law on Plttf's Motion to increase the AD DAMNUM and to amend the complaint. (To be filed)			
March 31-75	Filed Plttf's answering affdvt to Motion of Zim American Israeli Shipping Co.			
March 31-75	Filed Plttf's answering Affdvt to Motion on Forum non Conveniens. (To be filed)			
March 31-75	Filed Plttf's Memorandum of Law in opposition to motion of Deft Zim-American-Israeli Shipping Co.			

(CONT'D on Page #4)

Page #4

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
March 31-75	Filed Pltff's Memorandum of Law in opposition to motion on Forum Non Conveniens. (To Judge)			
April 4-75	Filed Deft's (Zim-Israeli shipping Co.) affdvt in reply to the answering Affdvt of the Pltff, to said deft's motion for summary judgment.			
Apr 7-75	Filed Deft's (Zim Israel Navigation Co.) Reply Memorandum.			
May 9-75	Filed Deft's Notice to Take deposition of Nicos Pantellos.			
May 16-75	Filed Pltff's Motion #42430 - The Motion to dismiss on the ground of forum non conveniens is granted. Settle order on notice.—PALMIERI, J. (n/m 5-19-75)			
May 19-75	Filed MEMO ENDORSEMENT on Deft's motion filed 3-20-75. Motion Granted. See Opinion dated 5-16-75, filed herewith.—PALMIERI, J. (m/n)			
May 19-75	Filed MEMO ENDORSEMENT on Pltff's motion filed 3-14-75. In light of the disposition made of Deft's motions to dismiss, it is unnecessary to pass upon this motion. See Opinion dated 5-16-75 filed herewith.—PALMIERI, J. (m/n)			
May 19-75	Filed MEMO ENDORSEMENT on Deft's motion filed 3-20-75. Motion Granted. See Opinion dated May 16-19-75 filed herewith.—PALMIERI, J. (m/n)			
5-15-75	Filed Defts' Notice of Taking deposition of Nicos Pantellos.			
May 27-75	Filed Pltff's Notice of Motion for Reargument.			
May 27-75	Filed Pltff's Memorandum of Law on Motion for Reargument.			
June 6-75	Filed Deft's Memorandum in Opposition to Pltff's Motion for Reargument.			
June 11-75	Filed pltff's reply memorandum in opposition to pltff's motion for Reargument.			
Jun 18-75	Filed Memorandum Opinion #42617....The Court reaffirms the views expressed in its opinion and pltff's request to amend his complt to allege foreign law under 46 U.S.C.A. § 764 of the DOESA is denied. It is so Ordered....Palmieri, J. mm			
6-18-75	Filed Memo-End on back of motion filed 5-27-75—The motion for reargument is granted and the court adheres to its opinion dtd. 5-16-75. See opinion dated 6-18-75...filed herewith....Palmieri, J.			
Jul 1-75	Filed pltff's Memorandum of Law permitting an appeal under 28 U.S.C.A. 1292(b).			
///////// Con't on Page #5				

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PALMIERI, I

DATE	PROCEEDINGS
7-3-75	Filed Order & Judgment that the motion of Zim-American Israeli Shipping Co. pursuant to Rule 56 for summary judgment dismissing the complaint on the ground that the cause of action against it is without merit is granted.....PALMIERI,J Judgment Entered, 7-7-75, Clerk m/n
Jul 3-75	Filed Order that any further claim which plaintiff may have against Deft. Zim Israel is DISMISSED on the ground of <u>Bona non conveniens</u> provided (1) plaintiff is given 120 days from any entry of this order to reinstitute this action in either Ecuador or Israel; (2) Zim Israel agrees to appear and answer in any such action in either Ecuador or Israel; (3) Zim Israel consents to waive the defense of statute of limitations, etc. (4) Zim Israel issues a letter of indemnity in the amount of \$25,000.00, etc. —PALMIERI, J. (m/m)
July 3-75	Filed MEMO ENFORCEMENT on above Order filed same date. In filing the attached order the Court is mindful of a very recent decision by the Court of Appeals 2nd Circuit, of which the parties have apparently had no notice. This decision would appear to dispose of any doubt concerning the correctness of the conclusions set forth in this Court's opinions of May 16, 1975 and June 18, 1975.—PALMIERI, J. (m/n)
July 30-75	Filed plaintiff's Notice of Appeal to the U.S.C.A., for the 2nd Circuit from the final order and judgment dated 7-3-75.(Copy mailed to Deft's Atty.)
8-11-75	Filed Plaintiff's designation of the issues to be raised on appeal.
8-20-75	Filed plaintiff's Notice of Motion for an order to proceed on appeal in <u>Bona Pauperis</u> , under Rule 24 of the F.R.A.P.
	A TRUE COPY RAYMOND E. BUNCHARDT, Clerk <i>C. E. Thompson</i> By Deputy, Clerk

D. C. 109 Criminal Continuation Sheet

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- X

MERCEDES ALBAREZ RENTEIRA, personal
representative of the estate of
JACINTO VICENTE MEJIA RENTERIA,
deceased,

Plaintiff,

-against-

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI
NAVIGATION CO., ZIM ISRAEL NAVIGATION
CO. LTD., ZIM LINES and AMERICAN-ISRAELI
SHIPPING CO., INC.

Defendants.

JUDGE PALMIERI

COMPLAINT

PLAINTIFF
DEMANDS A TRIAL
BY JURY

71 CIV. 2992

- X

ACTION UNDER SPECIAL RULE FOR SEAMEN TO SUE WITHOUT SECURITY AND
PREPAYMENT OF FEES FOR ENFORCEMENT OF LAWS OF THE UNITED STATES
FOR THE PROTECTION OF HEALTH AND SAFETY AT SEA.

The plaintiff, by THOMAS M. BREEN, her attorney,
complaining of the defendants, alleges upon information and belief:

FIRST: That the decedent JACINTO VICENTE MEJIA
RENTERIA died intestate on a voyage of the M. V. DAHLIA about
April 23rd, 1968.

FIRST(A): That at all the times hereinafter mentioned
the above named defendant ZIM ISRAEL NAVIGATION CO. was and now
is a foreign corporation with an office for the regular transaction
of business within the County of New York, State of New York, and
at all said times was and is doing business in said county and state.

SECOND: That at all the times hereinafter mentioned
the above named defendant ZIM ISRAELI NAVIGATION CO. was and now
is a foreign corporation with an office for the regular transaction
of business within the County of New York, State of New York and
at all said times was and is doing business in said county and
state.

THIRD: That at all the times hereinafter mentioned the
above named defendant ZIM ISRAEL NAVIGATION CO. LTD. was and now
is a foreign corporation with an office for the regular transaction

of business within the County and State of New York and at all said times was and is doing business in said county and state.

FOURTH: That at all the times hereinafter mentioned the above named defendant ZIM LINES was and now is a foreign corporation with an office for the regular transaction of business within the County and State of New York, and at all said times was and is doing business in said county and state.

FIFTH: That at all the times hereinafter mentioned the above named defendant AMERICAN-ISRAELI SHIPPING CO. INC. was and now is a foreign corporation with an office for the regular transaction of business within the County and State of New York, and at all said times was and is doing business in said county and state.

SIXTH: That at all the times hereinafter mentioned, the defendant ZIM ISRAEL NAVIGATION CO. was and is doing business in the State of New York, County of New York through ZIM ISRAEL NAVIGATION CO. LTD., a duly authorized agent.

SEVENTH: That at all the times hereinafter mentioned, the defendant ZIM ISRAEL NAVIGATION CO. was and is doing business in the State of New York, County of New York through AMERICAN-ISRAELI SHIPPING CO. INC., a duly authorized agent.

EIGHTH: That at all the times hereinafter mentioned, the defendant ZIM ISRAELI NAVIGATION CO. was and is doing business in the State of New York, County of New York through ZIM ISRAEL NAVIGATION CO. LTD.. a duly authorized agent.

NINTH: That at all the times hereinafter mentioned, the ZIM ISRAELI NAVIGATION CO. was and is doing business in the State of New York, County of New York through the AMERICAN-ISRAELI SHIPPING CO. INC., a duly authorized agent.

TENTH: That at all the times hereinafter mentioned, the defendant ZIM ISRAELI NAVIGATION CO. was and is doing business in the State of New York, County of New York through ZIM LINES, a duly authorized agent.

ELEVENTH: That at all the times hereinafter mentioned the defendant AMERICAN-ISRAELI SHIPPING CO. INC. was and is doing business in the State of New York, County of New York through ZIM LINES, a duly authorized agent.

TWELFTH: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. owned the M/V DAHLIA.

THIRTEENTH: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. operated, managed, controlled, provisioned and supplied the M/V DAHLIA.

FOURTEENTH: That at all the times hereinafter mentioned the defendant ZIM ISRAELI NAVIGATION CO. owned the M/V DAHLIA.

FIFTEENTH: That at all the times hereinafter mentioned the defendant ZIM ISRAELI NAVIGATION CO. operated, managed, controlled, provisioned and supplied the M/V DAHLIA.

SIXTEENTH: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. LTD. owned the M/V DAHLIA.

SEVENTEENTH: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. LTD. operated, managed, provisioned and supplied the M/V DAHLIA.

EIGHTEENTH: That at all the times hereinafter mentioned the defendant ZIM LINES owned the M/V DAHLIA.

NINETEENTH: That at all the times hereinafter mentioned the defendant ZIM LINES operated, managed, controlled, provisioned and supplied the M/V DAHLIA.

TWENTIETH: That at all the times hereinafter mentioned the defendant AMERICAN-ISRAELI SHIPPING CO. INC. owned the M/V DAHLIA.

TWENTY-FIRST: That at all the times hereinafter mentioned the defendant AMERICAN-ISRAELI SHIPPING CO. INC. operated, managed, provisioned and supplied the M/V DAHLIA.

TWENTY-SECOND: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. used the M/V DAHLIA for transportation of freight for hire by water in commerce to United States Ports.

TWENTY-THIRD: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. used the M/V DAHLIA for transportation of freight for hire by water in commerce to United States Ports.

TWENTY-FOURTH: That at all the times hereinafter mentioned the defendant ZIM ISRAEL NAVIGATION CO. LTD. used the M/V DAHLIA for transportation of freight for hire by water in commerce to United States Ports.

TWENTY-FIFTH: That at all the times hereinafter mentioned the defendant ZIM LINES used the M/V DAHLIA for transportation of freight for hire by water in commerce to United States Ports.

TWENTY-SIXTH: That at all the times hereinafter mentioned the defendant AMERICAN-ISRAELI SHIPPING CO. INC. used the M/V DAHLIA for transportation of freight for hire by water in commerce to United States Ports.

TWENTY-SEVENTH: That at all the times hereinafter mentioned the decedent was in the employ of the defendant ZIM ISRAEL NAVIGATION CO. on board the M/V DAHLIA as a seaman.

TWENTY-EIGHTH: That at all the times hereinafter mentioned the decedent was in the employ of the defendant ZIM ISRAEL NAVIGATION CO. on board the M/V DAHLIA as a seaman.

TWENTY-NINTH: That at all the times hereinafter mentioned the decedent was in the employ of the defendant ZIM ISRAEL NAVIGATION CO. LTD. on board the M/V DAHLIA as a seaman.

THIRTIETH: That at all the times hereinafter mentioned the decedent was in the employ of the defendant ZIM LINES on board the M/V DAHLIA as a seaman.

THIRTY-FIRST: That at all the times hereinafter mentioned the decedent was in the employ of the defendant AMERICAN-ISRAELI SHIPPING CO. INC. on board the M/V DAHLIA as a seaman.

THIRTY-SECOND: That on or about the 23rd day of April, 1968, while the decedent was in the employ of the defendants aboard the M/V DAHLIA, the decedent was caused to sustain serious and painful personal injuries while working on a boom of said vessel.

THIRTY-THIRD: That said injuries were not caused by any fault or want of care on the part of the decedent, but wholly and solely by reason of the dangerous, defective and unseaworthy condition of said vessel, its appliances and the negligence of the defendants and the failure to give the decedent prompt and adequate medical treatment.

THIRTY-FOURTH: That by reason of said injuries, the decedent was disabled, underwent conscious pain and suffering

and mental anguish, was prevented from attending to his work, lost sums of money which he otherwise would have earned, and was permanently injured during his lifetime, all to his damage, the damage of his estate, dependents and next of kin.

THIRTY-FIVE: That at all the times hereinafter mentioned the M/V DAHLIA was an American Merchant vessel.

THIRTY-SIX: That beginning in May 1967 the decedent and the defendants entered into an employment contract whereby decedent was to serve as a seaman aboard vessels of the defendants for regular monthly wages and found.

THIRTY-SEVEN: That at the time decedent was injured and for a long period of time before the date of decedent's injury the M/V DAHLIA made frequent trips to and from the United States.

THIRTY-EIGHTH: That for a long time before decedent was injured the defendant ZIM ISRAEL NAVIGATION CO. used the M/V DAHLIA as part of a systematic operation and continuous service in its business so that the vessel made frequent trips to and from the United States and had frequent contacts with the United States.

THIRTY-NINTH: That for a long time before the decedent was injured the defendant ZIM ISRAELI NAVIGATION CO. used the M/V DAHLIA as part of a systematic operation and continuous service in its business so that the vessel made frequent trips to and from the United States and had frequent contacts with the United States.

FORTIETH: That for a long time before decedent was injured the defendant ZIM ISRAEL NAVIGATION CO. LTD. used the M/V DAHLIA as part of a systematic operation and continuous service in its business so that the vessel made frequent trips to and from the United States and had frequent contacts with the United States.

FORTY-FIRST: That for a long time before decedent was injured the defendant ZIM LINES used the M/V DAHLIA as part of a systematic operation and continuous service in its business so that the vessel made frequent trips to and from the United States and had frequent contacts with the United States.

FORTY-SECOND: That for a long time before decedent was injured the defendant AMERICAN-ISRAELI SHIPPING CO. INC. used the M/V DAHLIA as part of a systematic operation and continuous service in its business so that the vessel made frequent trips to and from the United States and had frequent contacts with the United States.

FORTY-THIRD: That the principal contacts of the vessel and the corporations owning and operating the vessel are with the United States of America and the States thereof.

FORTY-FOURTH: That the most appropriate forum for this action is in the courts of the United States of America.

FORTY-FIFTH: That the earnings of the decedent were paid to him by the defendants in American dollars.

FORTY-SIXTH: That the decedent joined the said M/V DAHLIA in Cristobal, Canal Zone on May 8, 1967.

FORTY-SIXTH (A): That at the time the decedent was injured and died, the M/V DAHLIA was in the vicinity of Honolulu, Hawaii, United States of America.

FORTY-SIXTH (B): That a United States Coast Guard cutter responded to the appeal for medical assistance for the decedent and a doctor from said cutter examined the decedent.

FORTY-SIXTH (C): That the decedent was discharged from the M/V DAHLIA in Honolulu, Hawaii, United States of America.

FORTY-SEVENTH: That the majority of the corporate stock of the defendant ZIM ISRAEL NAVIGATION CO. is owned, directly or indirectly by citizens and residents of the United States.

FORTY-EIGHTH: That the majority of the corporate stock of the defendant ZIM ISRAELI NAVIGATION CO. is owned, directly or indirectly by citizens and residents of the United States.

FORTY-NINTH: That the majority of the corporate stock of the defendant ZIM ISRAEL NAVIGATION CO. LTD. is owned directly or indirectly by citizens and residents of the United States.

FIFTIETH: That the majority of the corporate stock of the defendant ZIM LINES is owned, directly or indirectly by citizens and residents of the United States.

FIFTY-FIRST: That the majority of the corporate stock of the defendant AMERICAN-ISRAELI SHIPPING CO. INC. is owned, directly or indirectly by citizens and residents of the United States.

FIFTY-SECOND: That the defendant ZIM ISRAEL NAVIGATION CO. was entirely operated and controlled by citizens of the States of the United States of America.

FIFTY-THIRD: That the defendant ZIM ISRAELI NAVIGATION CO. was entirely operated and controlled by citizens of the United States of America.

FIFTY-FOURTH: That the defendant ZIM ISRAEL NAVIGATION CO. LTD. was entirely operated and controlled by citizens of the States of the United States of America.

FIFTY-FIFTH: That the defendant ZIM LINES was entirely operated and controlled by citizens of the States of the United States of America.

FIFTY-FIFTH (A) That the defendant AMERICAN-ISRAELI SHIPPING CO. INC. was entirely operated and controlled by citizens of the United States of America.

FIFTY-SIXTH: That the Israeli flag on the M/V DAHLIA is illusory.

FIFTY-SEVENTH: That while the decedent was in the employ of the defendants on board the M/V DAHLIA the ship never called at an Israeli port.

FIFTY-EIGHTH: That citizens of the United States formed a foreign corporation and placed the M/V DAHLIA under an Israeli flag.

FIFTY-NINTH: That at the time of his injuries the decedent was in the employ of the defendants jointly and/or severally in the capacity of a seaman.

SIXTIETH: That the operation, maintenance and routing of the M/V DAHLIA were controlled and directed in the United States of America.

SIXTY-FIRST: That the activities of the M/V DAHLIA were entirely directed and controlled by the defendants in the State of New York.

SIXTY-SECOND: That the decedent was a seaman and this action is brought to recover damages for personal injuries under a Federal Statute, to wit, Section 33 of the Merchant Seamen's Act of June 5, 1920, amending Section 20 of the Seamen's Act of March 4th, 1915, and jurisdiction herein is claimed by virtue of said statute.

SIXTY-THIRD: That the plaintiff was not aware of her legal rights to claim damages under the Jones Act, for unseaworthiness and for failure to treat the decedent.

SIXTY-FOURTH: That the defendants knew of the events giving rise to the injuries to the decedent, the failure to treat him and his subsequent death.

SIXTY-FIFTH: That a report was made to the defendants of the aforesaid events.

SIXTY-SIXTH: That witnesses to the circumstances aboard the vessel and the medical treatment have been and still are available for interrogation and investigation by the defendants.

SIXTY-SEVENTH: That the vessel is now in active use by the defendants and under their control.

SIXTY-EIGHTH: That there has been no unreasonable delay by the plaintiff in bringing this action.

SIXTY-NINTH: That there has been no consequent prejudice to the defendants by the prosecution of this action.

PLAINTIFF, FOR A SECOND CAUSE OF ACTION
REPEATS AND REALLEGES PARAGRAPHS FIRST
THROUGH SIXTY-FIRST, BOTH INCLUSIVE AND
SIXTY-THIRD THROUGH SIXTY-NINTH, BOTH
INCLUSIVE, AND IN ADDITION THERETO ALLEGES
UPON INFORMATION AND BELIEF:

SEVENTIETH: That said injuries were not caused by any fault or want of care on the part of the decedent, but wholly and solely by reason of the unseaworthiness of the said M/V DAHLIA.

SEVENTY-FIRST: That by reason of said injuries, the decedent was disabled, underwent conscious pain and suffering and mental anguish, was prevented from attending to his work, lost sums of money which he otherwise would have earned, and was permanently injured during his lifetime, all to his damage, the damage of his estate, dependents and next-of-kin.

SEVENTY-SECOND: That jurisdiction in this cause of action is based upon the General Maritime Law; jurisdiction is also based on diversity of citizenship between plaintiff and the defendants - and existence of a controversy in excess of Ten Thousand (\$10,000.00) Dollars.

PLAINTIFF, FOR A THIRD CAUSE OF ACTION
REPEATS AND REALLEGES PARAGRAPHS FIRST
THROUGH SEVENTY-FIRST, BOTH INCLUSIVE,
AND IN ADDITION THERETO ALLEGES UPON
INFORMATION AND BELIEF:

SEVENTY-THIRD: That the decedent was a seaman, and
this action was brought to recover damages for death, under a
Federal Statute, to wit, Section 33 of the Merchant Seamen's
Act of June 5, 1920, amending Section 20 of the Seamen's Act of
March 4, 1915, and jurisdiction herein is claimed by virtue of
said statute.

SEVENTY-FOURTH: That on or about the 23rd day of April,
1968, while the decedent was in the employ of the defendants
aboard the M/V DAHLIA, the decedent was caused to sustain serious
and painful personal injuries while working on a boom of said
vessel.

SEVENTY-FIFTH: That as a result of sustaining said
injuries and the failure of the defendants to give the decedent
prompt and adequate medical treatment, the decedent died leaving
surviving dependents and next of kin.

SEVENTY-SIXTH: That said death was not caused by any
fault or want of care on the part of the decedent, but wholly
and solely by reason of the dangerous, defective and unseaworthy
condition of said vessel, its appliances and the negligence of
the defendants, their agents and employees.

SEVENTY-SEVEN: That by reason of said death, damages
and pecuniary loss were sustained by his estate, dependents and
next-of-kin.

PLAINTIFF, FOR A FOURTH CAUSE OF ACTION
REALLEGES AND REITERATES PARAGRAPHS
FIRST THROUGH SIXTY-FIRST, BOTH INCLUSIVE,
SIXTY-THIRD THROUGH SIXTY-NINTH, BOTH
INCLUSIVE, AND IN ADDITION THERETO ALLEGES
UPON INFORMATION AND BELIEF:

SEVENTY-EIGHTH: That jurisdiction in this cause of
action is based upon General Maritime Law: jurisdiction is also
based on diversity of citizenship between plaintiffs and the

defendants - and existence of a controversy in excess of Ten Thousand (\$10,000.00) Dollars.

SEVENTY-NINTH: That on or about the 23rd day of April, 1968, while the decedent was in the employ of the defendants aboard the M/V DAHLIA, the decedent was caused to sustain serious and painful personal injuries while working on a boom of said vessel.

EIGHTIETH: That as a result of decedent's sustaining said injuries and the failure to treat the decedent aboard the vessel after the officers of the ship knew of his injuries and because of the unseaworthiness of the personnel aboard the ship, the decedent died leaving a surviving widow, dependents and next-of-kin.

EIGHTY-FIRST: That said death was not caused by any fault or want of care on the part of the decedent, but wholly and solely by reason of the unseaworthiness of the said M/V DAHLIA.

EIGHTY-SECOND: That by reason of said death, damages and pecuniary loss were sustained by his estate, dependents and next-of-kin.

PLAINTIFF, FOR A FIFTH CAUSE OF ACTION
REALLEGES AND REITERATES PARAGRAPHS
FIRST THROUGH SIXTY-NINTH BOTH INCLUSIVE
AND IN ADDITION THERETO ALLEGES UPON
INFORMATION AND BELIEF:

EIGHTY-THIRD: That after the decedent was injured in the service of the M/V DAHLIA he did not receive prompt, proper and adequate medical treatment.

EIGHTY-FOURTH: That by reason of the failure to receive prompt, proper and adequate medical treatment the decedent was caused to endure unnecessary pain and suffering, his injuries worsened and he died.

PLAINTIFF, FOR A SIXTH CAUSE OF ACTION
REALLEGES AND REITERATES PARAGRAPHS FIRST
THROUGH SIXTY-FIRST, BOTH INCLUSIVE,
SIXTY-THREE THROUGH SIXTY-NINE BOTH INCLUSIVE,
AND SEVENTY-FOUR THROUGH SEVENTY-SEVEN
BOTH INCLUSIVE, AND IN ADDITION THERETO,
ALLEGES UPON INFORMATION AND BELIEF:

EIGHTY-FIFTH: That the decedent was a seaman and
his death occurred on the high seas beyond a marine league from
the shore of any state or dependency of the United States.

EIGHTY-SIXTH: This cause of action is brought under
the provisions of the Death on the High Seas Act 46 USCA 761 Et
Seq.:

"Right of action; where and by whom brought

"Whenever the death of a person shall be caused
by wrongful act, neglect, or default occurring
on the high seas beyond a marine league from
the shore of any State, or the District of
Columbia, or the Territories or Dependencies
of the United States, the personal representative
of the decedent may maintain a suit for damages in
the district courts of the United States, in
admiralty, for the exclusive benefit of the
decedent's wife, husband, parent, child or dependent
relative against the vessel, person, or corporation
which would have been liable if death had not
ensued, Mar. 30, 1920, c 111, Section 1, 41 Stat. 547."

EIGHTY-SEVENTH: That by reason of the allegations
in the six causes of action in this complaint, plaintiff has
been damaged in the sum of EIGHTY-FIVE THOUSAND (\$85,000.00)
DOLLARS.

WHEREFORE, plaintiff demands judgment against the
defendants in the sum of EIGHTY-FIVE THOUSAND (\$85,000.00) DOLLARS,
together with the costs and disbursements of this action.

Thomas M. Breen
THOMAS M. BREEN
Attorney for Plaintiff
Office & P.O. Address
160 Broadway
New York, N.Y. 10038
BEekman 3-3740

18a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
MERCEDES ALBAREZ RENTEIRA, personal :
representative of the estate of : 71 Civil 2992
JACINTO VICENTE MEJIA RENTERIA, : [Judge PALMIERI]
deceased, :
Plaintiff, :
-against- :
ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI :
NAVIGATION CO., ZIM ISRAEL NAVIGATION :
CO. LTD., ZIM LINES and AMERICAN-ISRAELI :
SHIPPING CO., INC., :
Defendants. :
-----X

11/11
ANSWER
FILED
U.S. DISTRICT COURT
S.D.N.Y.

Defendant ZIM ISRAEL NAVIGATION CO. LTD., by its attorneys, HILL, BETTS & NASH, answering the complaint of the plaintiff herein, alleges upon information and belief:

FIRST: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "FIRST", "FIRST(A)", "SECOND", "FOURTH", "TENTH", "SIXTY-SECOND", "SIXTY-THIRD" and "SIXTY-SIXTH" of the complaint.

SECOND: Admits the allegations contained in paragraph "FIFTH" of the complaint, except denies that defendant AMERICAN-ISRAELI SHIPPING CO. INC. was and now is a foreign corporation.

THIRD: Denies the allegations contained in paragraphs "SIXTH", "SEVENTH", "EIGHTH", "NINTH", "ELEVENTH", "TWELFTH", "THIRTEENTH", "FOURTEENTH", "FIFTEENTH", "EIGHTEENTH", "NINETEENTH", "TWENTIETH", "TWENTY-FIRST", "TWENTY-SECOND", "TWENTY-THIRD", "TWENTY-FIFTH", "TWENTY-SIXTH", "TWENTY-SEVENTH", "TWENTY-EIGHTH", "THIRTIETH", "THIRTY-FIRST", "THIRTY-THIRD", "THIRTY-FOURTH", "THIRTY-FIVE", "THIRTY-EIGHTH", "THIRTY-NINTH",

"FORTY-FIRST", "FORTY-SECOND", "FORTY-THIRD", "FORTY-FOURTH",
"FORTY-FIFTH", "FORTY-SIXTH (A)", "FORTY-SIXTH (C)",
"FORTY-SEVENTH", "FORTY-EIGHTH", "FORTY-NINTH", "FIFTIETH",
"FIFTY-FIRST", "FIFTY-SECOND", "FIFTY-THIRD", "FIFTY-FOURTH",
"FIFTY-FIFTH", "FIFTY-FIFTH (A)", "FIFTY-SIXTH", "FIFTY-EIGHTH",
"SIXTIETH", "SIXTY-FIRST", "SIXTY-FOURTH", "SIXTY-FIFTH",
"SIXTY-EIGHTH" and "SIXTY-NINTH" of the complaint.

FOURTH: Admits the allegations contained in paragraphs "THIRD", "SIXTEENTH", "SEVENTEENTH", "TWENTY-FOURTH", "TWENTY-NINTH", "FORTY-SIXTH" and "FORTY-SIXTH (B)" of the complaint.

FIFTH: Denies the allegations contained in paragraph "THIRTY-SECOND" of the complaint, except admits that on or about the 19th day of April, 1968, while the deceased was in the employ of the defendant Zim Israel Navigation Co. Ltd., aboard M/V DAHLIA, he sustained personal injuries while working on said vessel.

SIXTH: Denies the allegations contained in paragraph "THIRTY-SIX" of the complaint, except admits that beginning in May 1967 the deceased and the defendant Zim Israel Navigation Co. Ltd. entered into an employment contract whereby he was to serve as a seaman aboard said vessel.

SEVENTH: Denies the allegations contained in paragraph "THIRTY-SEVEN" of the complaint, except admits that before the date of the deceased's injury said vessel made trips to and from the United States.

EIGHTH: Denies the allegations contained in paragraph "FORTIETH" of the complaint, except admits that before the de-

ceased was injured the defendant Zim Israel Navigation Co. Ltd. used said vessel in its business so that the vessel made trips to and from the United States.

NINTH: Denies the allegations contained in paragraph "FIFTY-SEVENTH" of the complaint, except admits that while the deceased was in the employ of the defendant Zim Israel Navigation Co. Ltd. on board said vessel, the ship never called at an Israeli port.

TENTH: Denies the allegations contained in paragraph "FIFTY-NINTH" of the complaint, except admits that at the time of his injuries the deceased was in the employ of the defendant Zim Israel Navigation Co. Ltd. in the capacity of a seaman.

ELEVENTH: Denies the allegations contained in paragraph "SIXTY-SEVENTH" of the complaint, except admits that the vessel is now in active use by the defendant Zim Israel Navigation Co. Ltd. and under its control.

ANSWERING THE SECOND ALLEGED CAUSE
OF ACTION

TWELFTH: Denies the allegations contained in paragraphs "SEVENTIETH", "SEVENTY-FIRST" and "SEVENTY-SECOND" of the complaint.

ANSWERING THE THIRD ALLEGED CAUSE
OF ACTION

THIRTEENTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "SEVENTY-THIRD" of the complaint.

FOURTEENTH: Denies the allegations contained in paragraph "SEVENTY-FOURTH" of the complaint, except admits that on

or about the 23rd day of April, 1968, while the deceased was in the employ of the defendant Zim Israel Navigation Co. Ltd., aboard said vessel, he sustained personal injuries while working.

FIFTEENTH: Denies the allegations contained in paragraphs "SEVENTY-FIFTH", "SEVENTY-SIXTH" and "SEVENTY-SEVEN" of the complaint.

ANSWERING THE FOURTH ALLEGED CAUSE
OF ACTION

SIXTEENTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "SEVENTY-EIGHTH" of the complaint.

SEVENTEENTH: Denies the allegations contained in paragraph "SEVENTY-NINTH" of the complaint, except admits that on or about the 23rd day of April, 1968, while the deceased was in the employ of the defendant Zim Israel Navigation Co. Ltd., aboard said vessel, he sustained personal injuries while working.

EIGHTEENTH: Denies the allegations contained in paragraph "EIGHTIETH" of the complaint, except admits that the deceased died leaving a surviving widow and child.

NINETEENTH: Denies the allegations contained in paragraphs "EIGHTY-FIRST" and "EIGHTY-SECOND" of the complaint.

ANSWERING THE FIFTH ALLEGED CAUSE
OF ACTION

TWENTIETH: Denies the allegations contained in paragraphs "EIGHTY-THIRD" and "EIGHTY-FOURTH" of the complaint.

ANSWERING THE SIXTH ALLEGED CAUSE
OF ACTION

TWENTY-FIRST: Denies having any knowledge or infor-

mation sufficient to form a belief as to the allegations contained in paragraphs "EIGHTY-FIFTH" and "EIGHTY-SIXTH" of the complaint.

TWENTY-SECOND: Denies the allegations contained in paragraph "EIGHTY-SEVENTH" of the complaint.

AS AND FOR A FIRST DEFENSE

TWENTY-THIRD: That at all the material times referred to in the complaint, said vessel was in all respects seaworthy, properly equipped, manned and supplied, and that any injury suffered by the deceased, as alleged in the complaint, was not due or contributed to by any unseaworthiness on the part of said vessel.

AS AND FOR A SECOND DEFENSE

TWENTY-FOURTH: That any injury suffered by the deceased, as alleged in the complaint, was due wholly or in part to his want of care, default or negligence, and not to any want of care, default or negligence on the part of the defendant Zim Israel Navigation Co. Ltd., its agents, officers, servants or employees, or others for whom it may be responsible.

AS AND FOR A THIRD DEFENSE

TWENTY-FIFTH: Upon information and belief, the plaintiff is a resident domiciled in Ecuador. At the time the deceased joined said vessel, he was a resident of Ecuador and entered into a contract of employment with the defendant Zim Israel Navigation Co. Ltd., a corporation duly organized and existing under the laws of the State of Israel. At the time of the deceased's accident and death, said vessel was sailing in international waters.

TWENTY-SIXTH: By virtue of the foregoing, the complaint should be dismissed upon the ground of forum non conveniens.

AS AND FOR A FOURTH DEFENSE

TWENTY-SEVENTH: On the 6th day of November, 1968, Mrs. BETTY CUSME de MEJIA, widow of the deceased, in consideration of the sum of Twenty-Four Hundred U.S. Dollars (\$2,400.00), released and forever discharged Zim Israel Navigation Co., Ltd., and MV "DAHLIA" and the owners, agents, charterers, master, officers and crew of said Steamship from all claims for herself individually and as his widow and for his child arising out of the deceased's alleged injury of April 19, 1968, and his death on April 22, 1968.

TWENTY-EIGHTH: By virtue of the foregoing, the complaint should be dismissed upon the ground of said release of all claims against the said vessel and her owners, agents, charterers, master, officers and crew arising out of said alleged injury and death.

WHEREFORE, the defendant Zim Israel Navigation Co. Ltd. demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

HILL, BETTS & NASH

By: Robert S. Hans

A Member of the Firm
Attorneys for Defendant
Zim Israel Navigation Co. Ltd.
Office & P. O. Address:
26 Broadway
New York, N. Y. 10004

S.D. OF N.Y.

THIRD: Denies the allegations contained in paragraphs "SIXTH", "SEVENTH", "EIGHTH", "NINTH", "ELEVENTH", "TWELFTH", "THIRTEENTH", "FOURTEENTH", "FIFTEENTH", "EIGHTEENTH", "NINETEENTH", "TWENTIETH", "TWENTY-FIRST", "TWENTY-SECOND", "TWENTY-THIRD", "TWENTY-FIFTH", "TWENTY-SIXTH", "TWENTY-SEVENTH", "TWENTY-EIGHTH", "THIRTY-FIRST", "THIRTY-THIRD", "THIRTY-FIVE", "THIRTY-SIX", "FORTY-SECOND", "FORTY-THIRD", "FORTY-FOURTH", "FORTY-FIFTH", "FORTY-NINTH", "FIFTY-FIRST", "FIFTY-FOURTH", "FIFTY-FIFTH(A)", "FIFTY-SIXTH", "FIFTY-SEVENTH", "FIFTY-EIGHTH", "FIFTY-NINTH", "SIXTIETH", "SIXTY-FIRST", "SIXTY-FOURTH", "SIXTY-FIFTH", "SIXTY-SIXTH", "SIXTY-SEVENTH", "SIXTY-EIGHTH" and "SIXTY-NINTH".

FOURTH: Admits the allegations contained in paragraphs "THIRD", "SIXTEENTH", "SEVENTEENTH" and "TWENTY-FOURTH".

ANSWERING THE SECOND ALLEGED CAUSE
OF ACTION

FIFTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "SEVENTIETH", "SEVENTY-FIRST" and "SEVENTY-SECOND".

ANSWERING THE THIRD ALLEGED CAUSE
OF ACTION

SIXTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "SEVENTY-THIRD" and "SEVENTY-SEVENTH".

SEVENTH: Denies the allegations contained in paragraphs "SEVENTY-FOURTH", "SEVENTY-FIFTH" and "SEVENTY-SIXTH".

ANSWERING THE FOURTH ALLEGED CAUSE
OF ACTION

EIGHTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained

in paragraphs "SEVENTY-EIGHTH", "EIGHTIETH", "EIGHTY-FIRST" and "EIGHTY-SECOND".

NINTH: Denies the allegations contained in paragraph "SEVENTY-NINTH".

ANSWERING THE FIFTH ALLEGED CAUSE
OF ACTION

TENTH: Denies the allegations contained in paragraphs "EIGHTY-THIRD" and "EIGHTY-FOURTH".

ANSWERING THE SIXTH ALLEGED CAUSE
OF ACTION

ELEVENTH: Denies having any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "EIGHTY-FIFTH" and "EIGHTY-SIXTH".

TWELFTH: Denies the allegations contained in paragraph "EIGHTY-SEVENTH".

AS AND FOR A FIRST DEFENSE

THIRTEENTH: Decedent had no contract or relationship with defendant ZIM-AMERICAN ISRAELI SHIPPING CO.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

FOURTEENTH: Plaintiff has failed to state a claim against defendant ZIM-AMERICAN ISRAELI SHIPPING CO. upon which relief can be granted.

WHEREFORE, the defendant ZIM-AMERICAN ISRAELI SHIPPING CO. INC. demands judgment dismissing the complaint

herein, together with the costs and disbursements of this action.

HILL, BETTS & NASH

By: Robert J. Blane
A Member of the Firm
Attorneys for Defendant
Zim-Israeli Shipping Co. Inc.
One World Trade Center
Suite 5215
New York, New York 10048

TO: THOMAS M. BREEN, ESQ.
Attorney for Plaintiff
160 Broadway
New York, New York 10038

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

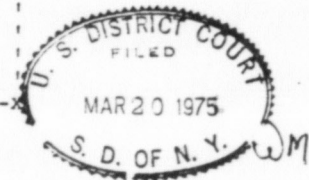
-----X
Thomas I. Fitzgerald, Public Administrator' 71 Civ. 2992
of the County of New York, State of New
York, as personal representative of
Jacinto Vincente Mejia Renteria,
Plaintiff,

vs.

Zim Israel Navigation Co., Ltd., et al.,
Defendant.

NOTICE OF MOTION

-----X
S I R S :



PLEASE TAKE NOTICE, that upon the annexed affidavit
of ROBERT S. BLANC, sworn to on the 19th day of March 1975
and upon all the pleadings heretofore had herein, the
undersigned will move this Court before the Honorable Edmund
L. Palmieri, United States District Judge, at Room 2703 of
the United States Court House, Foley Square, in the Borough of
Manhattan, City of New York, on the 3rd day of April 1975
at 10:00 o'clock in the forenoon of that day or as soon
thereafter as Counsel can be heard for an order pursuant to
Rule 56 of the Federal Rules of Civil Procedure dismissing
this action for failure to state a meritorious claim, and for
such other and further relief as the Court may deem proper.

Dated: New York, New York

March 19, 1975

Yours, etc.

HILL BETTS & NASH

By: Robert L. Lane
A Member of the Firm
Attorneys for Defendant
One World Trade Center
Suite 5215
New York, New York 10048

TO: Thomas M. Breen, Esq.
Attorney for Plaintiff
160 Broadway
New York, New York 10038

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Thomas I. Fitzgerald, Public Administrator :
of the County of New York, State of New :
York, as personal representative of :
Jacinto Vincente Mejia Renteria, :
:

Plaintiff, :

vs. :

Zim Israel Navigation Co., Ltd., :
et al., :

Defendants. :
-----X

AFFIDAVIT

STATE OF NEW YORK }
COUNTY OF NEW YORK } SS.:

ROBERT S. BLANC, being duly sworn, says:

I am a member of the firm of Hill, Betts & Nash,
attorneys for the defendants, Zim Israel Navigation Co., Ltd.
(hereinafter Zim Israel) and Zim American Israeli Shipping Co.,
Inc. (hereinafter Zim American).

I submit this affidavit in support of Zim American's
motion for summary judgment dismissing the complaint on the
ground that the cause of action against said defendant is
without merit.

The complaint alleges that the decedent was injured
in April in 1968 while working aboard M.V. DAHLIA and that the
injury was caused by the negligence of the defendants and
the unseaworthiness of the vessel.

The complaint named Zim Israel Navigation Co., Ltd.,
Zim American Israeli Shipping Co., Inc. (improperly sued as
American Israeli Shipping Co., Inc.) and three other non-
existent corporations. In the following forty-two paragraphs
of the complaint it was alleged that each of the above five
named defendants severally: 1) owned, operated, managed and

controlled said vessel; 2) employed the decedent and;
3) was a duly authorized agent to carry on the business of another named defendant in New York.

Plaintiff's attorney initially pleaded ignorance as to who, among the five named defendants, owned the vessel or employed the decedent. After three years of discovery plaintiff's attorney continues to profess ignorance as to these fundamental issues. It is inconceivable that, on the eve of trial, plaintiff's attorney can allege in good faith, that these issues are unresolved.

Zim American has denied that it ever owned, operated, managed or controlled said vessel and further denied that it ever employed the decedent.

As it appears in the affidavit of Egon Gruenhut, (attached hereto as Exhibit A and submitted in support of this motion), Zim American is the disclosed agent and representative in the United States of Zim Israel. Its activities are solely those of a husbanding agent for its principal.

The plaintiff's attorney is chargeable with knowledge of this. Lloyd's Register of Shipping for 1968 shows that Zim Israel owned said vessel, not Zim American. (a copy of the relevant port in Lloyd's Register is attached as Exhibit B).

Plaintiff's attorney has received a copy of the decedent's employment contract, dated May 8, 1967, which shows that Zim Israel was the employer of decedent, not Zim American. The contract was arranged through Maritime Enterprises, Zim Israel's Guayaquil agent (a copy of the employment agreement is attached hereto as Exhibit C).

There is a reason why plaintiff's attorney refuses to admit that which has become obvious. To do so would be an admission that there is no valid cause of action against

Zim American. Plaintiff's attorney is thoroughly familiar with the shipping industry and is aware that shipping lines must maintain agents in their various ports of call. Since he was the attorney of record for the plaintiff in Moncada v Lemuria Shipping Corp., 491 F. 2d 470 (2 Cir. 1974) he knows that these agents do not own, operate or control the vessels of their principals nor do they employ the seamen aboard those vessels. The cause of action against Zim American has been a ruse to mislead this Court into believing this action was not between aliens and also to induce the Public Administrator to believe that the alien decedent died possessed of a cause of action in New York, to wit, against Zim American.

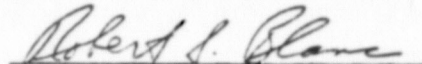
However, this point has been litigated both in our Federal and State Courts. Defendant is a disclosed husbanding agent for Zim Israel. In such capacity it is neither an employer of seamen nor an owner, operator or controller of vessels. See Scully v Zim Israel Nav. Co., Ltd., 1968 AMC 1209 [SDNY 1968 (a copy of Judge Tenney's opinion is attached hereto as Exhibit 3)]; McCoy v American Israeli Shipping Co., Inc., 42 Ad2d 12, 344 NYS2d 707 (1st Dept. 1973) aff'd 34 NY2d 569 (1974).

As held by this Circuit in Fitzgerald v Westland Marine Corp., 369 F. 2d 499 (2 Cir. 1966).

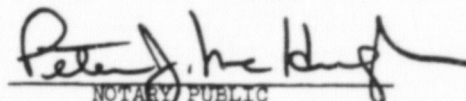
" . . . a law suit is a search for truth and the tools are provided for finding out the facts before the curtain goes up on trial. (Citation omitted). The summary judgment procedure contained in Rule 56 is just such a "tool" because it enables the Court to determine if the "curtain" should be raised at all. (Citation omitted). In this case . . . "the essence of the complaint against Westland was that it owned, operated and controlled the vessel in question at the time of the disaster." But this Court has stated "mere formal * * * allegations, while sufficient to stand as pleadings * * * [are] to be pierced upon Rule 56 motions and * * * [may] not forestall the award of summary relief." Citing Dressler v M.V. SANDPIPER, 331 F. 2d 130, 132 (2 Cir. 1964). Accord, Schwartz v Associated Musicians of

Greater New York, Local 802, 340 F. 2d 228 (2 Cir. 1964); Gauch v Meleski, 346 F. 2d 433 (5 Cir. 1965). 369 F. 2d at 500."

For the reasons stated in the annexed memorandum of law, it is respectfully submitted that this Court should grant Zim American's motion and dismiss this action pursuant to Rule 56 of the Federal Rules of Civil Procedure on the grounds that plaintiff's cause of action is without merit.


ROBERT S. BLANC

Sworn to before me
this 19th day of March, 1975


NOTARY PUBLIC

PETER J. McHUGH
Notary Public, State of New York
No. 24-7844245
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1978

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Thomas I. Fitzgerald, Public Administrator :
of the County of New York, State of New :
York, as personal representative of :
Jacinto Vincente Mejia Renteria, :
:

Plaintiff, :

vs. :

Zim Israel Navigation Co., Ltd., :
et al., :

Defendants. :
-----X

AFFIDAVIT

STATE OF NEW YORK }
COUNTY OF NEW YORK } SS.:

EGON GRUENHUT being duly sworn, deposes and says:

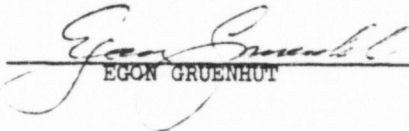
I am attorney-in-fact for Zim Israel Navigation Co., Ltd. and executive vice president of Zim American Israeli Shipping Co., Inc.

I am fully familiar with the corporate structures and functions of the defendants, Zim Israel Navigation Co., Ltd. and Zim American Israeli Shipping Co., Inc.

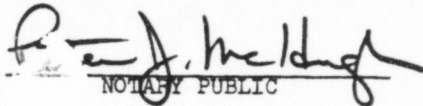
Zim Israel Navigation Co., Ltd. is an Israeli corporation having its principal place of business in Haifa, Israel. At all times, it has been the sole owner, operator, manager, controller and supplier of the vessel M.V. DAHLIA. It employed the decedent, Mejia Renteria, and said decedent was in its sole employ at the time of his injury and death in April of 1968.

Zim American Israeli Shipping Co., Inc. is a New York corporation having its principal place of business in New York City. At all times it has been the disclosed agent and representative in the United States of the Zim Israel Navigation Co., Ltd. As agent its scope of authorized

activities is limited to general administrative matters, cargo bookings, and passenger bookings. It never owned, chartered, operated, managed, controlled or supplied the vessel M.V. DAHLIA. It never owned, chartered, operated, managed, controlled or supplied the vessel M.V. DAHLIA. It never employed the decedent, Mejia Renteria. It had no representatives or employees working aboard the M.V. DAHLIA at the time of decedent's employment, injury, illness or death during the month of April 1968.


EGON GRUENHUT

Sworn to before me this
18th day of MARCH, 1975


NOTARY PUBLIC

PETER J. McHUGH
Notary Public, State of New York
No. 24-7844245
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1976

REGISTER BOOK

1968-69



Founded 1760

REGISTER OF SHIPS

A-L

LLOYD'S REGISTER OF SHIPPING

LONDON

EXHIBIT "B"

379

1968-69

REGISTER OF SHIPS

DAGMAR SALÉN

00001	DAGMAR SALÉN	3075	4-185A1	1965-18	Ch. Nav. de La Ciotat— La Ciotat	3 Tanker	Moby.aff	2 S Turb 67 geared to ac. shaft 5000hp	(a) 0
00002	Rodori A/S Salen	2048	4-185C	800' 2" 104' 3" 40' 0"		3 T's	L347000	Star-Laval Turb. Co.	Star
01 End	Stockholm A/S	57000		754' 11" 104' 0" 52' 0"		Der 8(7) 8(1)		2075 1475 Spl 870' F. 6475	623880
Ge Pld	Stockholm			P150' 700' 1 00				40 1400	
Rdr				1 00				3x750, 750, 2200W 440V 600c s.c.	
RTM/v				1 00					
00003	DAGMAR STENHÖJ	400		1900	Hutchinson Schiffbau—Husum	M. CSD		Oil 45A 6Cy. 200 x 430 mm	62: 6.0
0255	Stenhol Shipping I/S	303		220' 0" 34' 3" 12' 10"		1 Ho 1475'		1000hp	
01 End	Juulund	1000		157' 0" 34' 3" 12' 10"		G.40000 8.77700		Kubchen-Humboldt-Deutsch	Kin
Rdr				1 00 A S 00		2 Ho (each 100' 271' x 300')		4x300W 220V s.c.	190
RTM						SW Der 1(10) 4(2)			
00004	DAGNY	547		1900	Assarbo Skips—Assarbo	Wood M. Moby.aff		Oil 45A 6Cy. 200 x 430 mm	
0005	Johs Albert Sandström	94		20' 0" 30' 0" 12' 0"		2 Ho		1000hp	
0006	Norvik	200		1 00		2 Ho (each 175' x 110')		Freemohr-John & Mah.	Plu
0007	DAGNY K.	222	4-185A1	1964-6	Hall, Russell & Co. Ltd.—Abn	3 Moby.aff		T 3Cy. 18' 31" x 34" x 20"	20' 1: 0.0
0008	exDand Polaris-67	1570		330' 0" 40' 0" 10' 11"		4 Ho (40', 51', 51', 51')		N.E. Mar. Eng. Co. (1130) Ltd.	54
01 End	Panama	400		330' 0" 40' 0" 22' 0"		G.321919		2 S 2500 Sol. Ho (400) Sol	190
Rdr	Panama			0100' 700' 1 00		4 Ho (40' (200' x 20') (20' 35'),		2x300W 220V s.c.	
RTM/v				R/W NS 800		271' x 20')		3x300W 220V s.c.	
				1 00		1W Der 1(2)			
00009	DAGO	447		1907	Erikssberg M/V A/B—Got	M Tanager	Moby.aff	Oil 45A 6Cy. 200 x 430 mm	
0010	SLCU	172		180' 4" 30' 1" 12' 0"		4 T's		4000hp	
01 End	Kaut & Jølle	400		30' 11"		L.7500		Hydral & Holm A. S.	1: 2nd
Rdr	Vikag			P32' 710' 1 00					100
RT				1 00		Der 1(1)			
00011	DAGRAN	120		1936	A. M. Linsen Skibs—Ålesund	M Fishing	Moby.aff	Oil 45A 6Cy. 180 x 300 mm	
0012	LJEK	53		110' 0" 18' 11"				3000hp	
01 End	exDagning 11-61 exJøvel-65			1 00				Alpha-Oleal	50m
Rdr	"Dagning" Rederi								
RTM/v	Havik Værhus								
	Moby								
00013	DAGRAN	1300		1900	A/S Fredrikstad M/V—Fos	M Bulk Carrier	Nichy.aff	Oil 45A 6Cy. 180 x 300 mm	
0014	LARC	1430		540' 0" 70' 0" 40' 0"		4 Ho (55', 55', 55', 55')		3000hp	
01 End	A/S Ocean	2000		510' 0" 70' 0" 40' 0"		G.340000 8.91000		A/S Fredrikstad M/V	1: 2nd
Rdr	Jø. P. Pedersen & Søn			1 00		4 Ho (204', 480', 480', 480')		3x300W 440V 600c s.c.	190
RTM/v	Oss.					480' x 334'			
						Der 1(10)			
00015	DAGSTJERNAN	800		1943	U.S.A.	M Tanker		Oil	
0016	TFGB	270		174' 1" 30' 0" 14' 0"		5 T's		3000hp	
01 End	Dagstjerne A/S	800		30' 0"				Union Diesel	6.0
Rdr	Beirungard			1 00				4x1000	
RTM						Der 1(1) 8(1)			
00017	DAGSTJERNAN	300		1900	Holte Verft A/S—Ustevika	M Fishing	Moby.aff	Oil 45A 6Cy. 230 x 400 mm	
0018	XPFF	191		110' 0" 32' 0" 11' 11"				4000hp	
01 End	P/O Bergsjø			1 00				Alpha-Oleal A/S	Plu
Rdr	Sand								
RTM									
00019	DAGUTE	615		1901	AL & Ch. de la Manche—Ope	M Fishing		Oil 45A 6Cy. 200 x 360 mm	
0020	KXRA	300		187' 0" 30' 0" 12' 0"				3000hp	
01 End	Samarin Fishing & Reeler			1 00		1x2000		Ch. de Canal 800c	20' 1: 0.0
Rdr	Transport Co. Ltd.			147' 0" 28' 0" 14' 0"		4 Ho (each 41' x 41')		3x300W 220V 500c s.c.	190
RTM/v	Holte					SW Der 1(1) 1(1)			
00021	DAH LAI	400		1901-1	Cochrane & Sons Ltd.—Bel	S		T 3Cy. 18' 31" x 34" x 20"	
0022	The Tai Nav. Co.	170		184' 0" 27' 0"				Ames & Smith Ltd.	Hul
01 End	Shanghai								
Rdr	People's Rep. of China								
00023	DAHSEIM	200		1900	Schulte & Bruns—End	M		Oil 45A 6Cy. 200 x 430 mm	
0024	DITS	140		140' 0" 30' 0" 12' 0"				3000hp	
01 End	exHermann Sub-64	470		140' 0" 30' 0" 12' 0"		G.20000 8.19700		Kubchen-Humboldt-Deutsch	Kin
Rdr	Rediff Nagel			P30' 714' 1 00		2 Ho			190
RTM	Hamburg			1 00					
00025	DAHLIA	5070	4-185A1	1901-6	Soc. des For. de la Méditerranée	M CSD	Moby.aff	Oil 45A 6Cy. 120 x 150 mm	
0026	KXHL	5040		—La Seyne		4 Ho (61', 67', 67', 67')		5200hp	
01 End	Zim Israel Navigation Co.	13732	4-185C	482' 0" 61' 0" 30' 0"		G.730017 8.630048		Soc. des For. de la Méditerranée	La Seyne
Rdr	Ltd.			430' 0" 61' 0" 40' 0"		5 Ho (20' (24', 27', 30', 37',		3x200W 220V s.c.	140
RTM/v	Holte			PST 743' 1 00		271' x 251')			
				R/W NS in holds 70M to U de 1 to 2nd dk		1W Der 10(5)			
				1 00					
00027	DAHLIA	540		1904-11	Hall, Russell & Co. Ltd.—Abn	M Tanker		Oil 45A 6Cy. 310 x 480 mm	
0028	ZSRI	100		130' 0" 30' 0"		5 Ho 20', 18'		hydraulic coupling	
01 End	Irwin & Johnson Ltd.	100	4-Cleaved LR until 5/66	127' 0" 20' 0" 12' 0"				3000hp	6.0
Rdr	Cano Tom			P22		5 Ho (2' x 31' (3' x 41' x		Alpha-Oleal A/S	Plu
RTM				R/W		31', 54' x 31' (3' x 5)		3x40 200W 110V s.c.	
				1 30' BHP				Convertible pitch propeller	

ZIM ISRAEL NAVIGATION COMPANY LIMITED,
HAIFA, ISRAEL

May 8th, 1967

Mr. Jacinto Vicente Mejia Renteria,

Dear Sir:

We hereby confirm our agreement to employ you in our service under the following terms:

1. You will be employed in the capacity of Galleyboy on board the vessel M/V. DAHLIA or any other vessel(s) designated by us from time to time (tankers included).
2. The period of your employment with us as aforesaid will be for Master's option as from the 8th day of May 1967 provided however that, should the period of your employment expire at a time when the vessel on which you are then serving is not at the port where you commenced your employment hereunder, we shall be entitled automatically to extend the period of your employment until the vessel reaches a port in Israel or any other port, as we in our discretion may decide.
3. The remuneration for your services will be US-\$90.00 per month, it is being clearly understood that this amount shall cover all payments due to you, including salary, social benefits, allowances and any other payments and emoluments whatsoever. Overtime work will be paid at the rate of US-\$0.49 per hour, eight (8) working hours amount to one day's work, fortyseven (47) working hours amount to one week's work.
4. During the period of your employment hereunder, you will be required to work during such hours and at such times as may from time to time be ordered by the Management Representative or Master of, and or your Superiors, on the vessel on which you are serving. You will be further required to comply with any and all instructions and directions as may from time to time be given by the Master and/or your Superiors as aforesaid.
5. You will be entitled to a paid annual leave at the rate of twelve (12) days per year or pro rata for any shorter or longer period of actual employment hereunder. The time at which such leave will be granted will be determined by us, it being understood that, as far as possible, we shall endeavour to grant you leave at such time(s) as you may, by thirty (30) days prior to written notice request.
6. In case of absence or illness during the period of your employment hereunder, you will be entitled to a maximum of thirty (30) days paid sick leave per year, or pro rata for the period of actual employment and the expenses of any medical treatment during such sick leave will be borne by us.
7. Upon the termination of your employment hereunder, you will be entitled to repatriation at our expense to the country or place where you commenced your services hereunder, save in the event that the termination of your employment hereunder resulted from a breach by you of this agreement.
8. Notwithstanding anything to the contrary herein contained, we shall be entitled to terminate your employment hereunder by giving you seven (7) days' prior notice in writing to that effect.
9. In case of breach of discipline or negligence, we shall be entitled to terminate the contract at any time without prior notice, and without any additional payments whatsoever.

10. It is agreed and understood that, save for the payments expressly provided for in this Agreement, you will not be entitled to any payments or compensation whatsoever, including *inter alia*, severance pay, in connection with the termination, for any reason whatsoever, of your employment hereunder.

11. This Agreement shall be governed by, and interpreted, in accordance with the laws of the State of Israel.

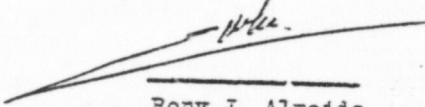
12. All necessity of any notarial or other official actions or protests in or about these presents is hereby waived and dispensed with.

13. It is understood that ZIM ISRAEL NAVIGATION CO., LTD., of Haifa, Israel, reserve the right to repatriate the crew member in question from any port by any means they choose. If being repatriated by ship, the crew member is required to work until arriving at a port nearest to the port of hire.


14. The contract period becomes in force after one month of trial period during which the Company reserves the right to terminate without further notification, the services of this crew member and repatriate him to port of hiring. It is however, understood that the crew member in question commits himself on the date of the signing of this contract.

Yours faithfully,

ZIM ISRAEL NAVIGATION COMPANY, LIMITED


Rony J. Almeida,
Maritime Enterprise
Guayaquil, Ecuador

WITNESSED AND ACCEPTED


Jacinto V. Mejia Renteria.

JEFFERSON CHEMICAL CO. vs. M/T GRENA, ET AL. 1209
1202.

See discussion in GILMORE & BLACK, *The Law of Admiralty*, 193, 194 (1957). Jefferson is not the type of party that COGSA was intended to protect. It is a substantial corporation who, with full knowledge, signed a contract of carriage which contained a clause exonerating the other party from liability for the type of contamination that occurred here. Jefferson is not being required to bear the burden for something that it did not openly agree to.

This Court finds that the bills of lading issued for the two shipments in question here were nothing more than receipts for the cargoes shipped, and that the Charter Party represented the actual agreement between the parties. I also find that COGSA does not apply to a bill of lading which remains in the hands of the charterer. Therefore, the exoneration clause relieves the M/T *Grena* and her owners, A/S J. Ludwig Mowinckels Rederi, of any responsibility for the contamination of the cargoes on these two voyages, and it is ORDERED, ADJUDGED, AND DECREED that judgment be entered in favor of Mowinckels and against Jefferson, with costs being taxed against Jefferson.

Counsel for defendants will submit to the Court a form of judgment after first securing the approval of opposing counsel.

WILLIAM SCULLY, Plaintiff,

vs.

ZIM ISRAEL NAVIGATION CO., LTD., ET AL., Defendants.

United States District Court, Southern District of New York, April 20, 1963.
63 Civ. 506.

REMOVAL OF CAUSES—For Diversity—Disclosed Agency No Bar.

Where longshoreman, a resident of New York, sued foreign shipowner, its disclosed general agent and disclosed local cargo representative in New York State Court, and shipowner removed the case to the federal court, *Held*: As both disclosed agents lacked ownership and control over the vessel and hence could not be liable, longshoreman's motion to remand the case to the state court *denied*.

MARTIN M. EASTER (SEBEL & PATECHSKY, of Counsel), for Plaintiff.

LENNARD K. RAMBUSCH (HAIGHT, GARDNER, POOR & HAVENS, of Counsel),
for Defendant.

EXHIBIT "D"

=====

CHARLES H. TENNEY, D. J.:

Following removal by defendant Zim Israel Navigation Company, Ltd. (hereinafter referred to as "Zim Israel") of this longshoreman's personal injury claim from the State court to this court, plaintiff now moves for an order remanding the action to the Supreme Court, State of New York, New York County.

The grounds for the removal were that Zim Israel was the real defendant in interest and that there existed the requisite diversity of citizenship and matter in controversy.

The plaintiff joined as co-defendants in the State court and in the present action, American Israeli Shipping Company, Inc., and Mediterranean Agencies, Inc. The first-named is the disclosed agent and general representative of Zim Israel and had no control over the employment and operation of the vessel involved herein and no employees or representatives aboard her at the time of the alleged accident.

The second-named is the cargo representative in the United States for Zim Israel but does not operate or control the vessel involved herein in any way, does not employ her crew nor dictate or supervise the manner in which the cargo should be loaded; nor did it have any employees or representatives aboard to supervise the cargo operations.

It seems clear that these disclosed agents, lacking ownership or control over the vessel, cannot be held liable herein, and that in any event the removal of the action to this court was proper. *Di Benedetto vs. Moller S. S. Co.*, 1960 A.M.C. 741, 186 F. Supp. 228 (E.D.N.Y., 1959).

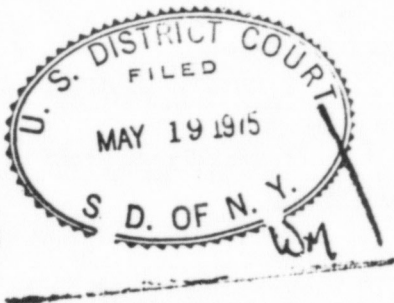
The motion to remand is accordingly in all respects denied with costs to defendant Zim Israel.

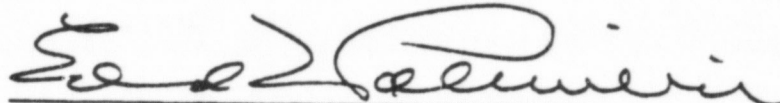
So ordered.

FITZGERALD v. ZIM ISRAEL NAVIGATION CO., ET AL.
71 Civ. 2992 (ELP)

Motion granted. See opinion dated May 16, 1975,
filed herewith.

Dated: New York, N. Y.
May 16, 1975




EDMUND L. PALMIERI
U. S. D. J.

MAY 19 1975
MICROFILM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X
Thomas I. Fitzgerald, Public Adminis- 71 Civ. 2992
trator of the County of New York, State :
of New York, as personal representative :
of Jacinto Vincente Mejia Renteria, :
Plaintiff, :
vs. :
Zim Israel Navigation Co., Ltd., et al, :
Defendant. :
----- X

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

Thomas M. Breen, being duly sworn, deposes and
says:

I am the attorney for the plaintiff, and I am
submitting this affidavit in opposition to the motion of the
defendant ZIM AMERICAN ISRAELI SHIPPING CO., INC. under Rule
56.

At the same time that this affidavit is being
served, another affidavit is being delivered in answer to
the motion of Zim Israel Navigation Co. Ltd., another
defendant in this case. Your deponent respectfully requests
that the Court read this other affidavit and exhibits
because it answers many of the contentions put forward by
the Zim American Israeli Shipping Co., Inc. - the moving
party in the present motion. Please refer to pages 1 and
2 - exhibits 1 and 2 on American ownership. With reference
to Zim American Israeli Shipping Co. Inc. as employer -
please refer to pages 3 and 4 - exhibits 3 and 4 of my other
affidavit. Let me add that the name of American Israeli
Shipping Co. Inc. was changed to Zim American Israeli
Shipping Co. Inc. - the moving party in this motion.

Attached is a copy of a letter dated October 16, 1973 on the stationery of TRANS-SEAS ECUADOR SHIPPING AGENCIES, of Guayaquil, Ecuador, So. Am., exhibit 1. The exhibit indicates that this agency was the hiring representative of American Israeli Shipping Co. Inc. The letter - in its first paragraph - refers to the same company as its principals with reference to work instructions for seamen aboard the M.V. ZIM GENOA. In 1968 another Ecuadorian agent referred to this defendant as employer and owner - see exhibit 3 of my other affidavit. The 1973 letter indicates that American Israeli employed the seamen on Zim vessels and actually operated and owned these ships in North and South America. The labeling of Zim Israeli as the owner in Lloyd's Register of Shipping does not indicate the actual owner and operator of the vessel and the employer of the plaintiff. The Court is entitled to look through the facade erected by the defendants - whether for tax or other purposes - in order to find out the actual owner of the ship and the employer of the plaintiff.

The Scully case - exhibit D in defendant's affidavit - states that American Israeli had no control over the employment and operation of the vessel. The facts shown by the plaintiff in the two answering affidavits and exhibits show the contrary.

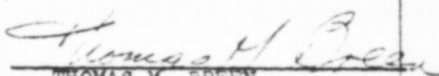
The other cases cited at page 3 of the affidavit of the defendant will be referred to in the brief for the plaintiff submitted with this affidavit.

Let me add that exhibit C - plaintiff's employment contract - is similar to the one disregarded by the United States Supreme Court in the Rhoditis case 398 U.S. 306, 90 S. Ct. 1731 (1970). The employment contract in the Rhoditis case was signed by a Greek seaman and referred to Greek law.

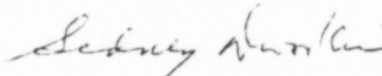
The affidavits of the plaintiff and his exhibits indicate clearly that questions of fact exist on ownership, operation and employment aboard the vessel. These matters can not be disposed of on a motion for summary judgment and should await the full trial of this action.

WHEREFORE, your deponent respectfully requests:

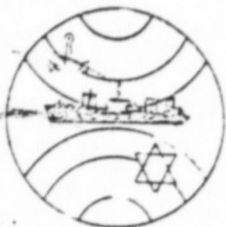
1. The motion of the defendant Zim American Israeli Shipping Co. Inc. for summary judgment be denied;
2. The Court grant such other and further relief as the justice of this cause requires.


THOMAS M. GREEN

Sworn to before me this
28th day of March, 1975.



SIDNEY DWORKIN
Notary Public, State of New York
No. 24-6130720
Qualified in Kings County
Commission Expires March 30, 1976



Eagle INC. 377 70 11
TRANS-SEAS ECUADOR SHIPPING AGENCIES

GUAYAQUIL, ECUADOR. So. AM.

Mr. Michael Herman

(201) 527-9619

CABLE ADD: TRANSEAS

TELEFONO No. 349599

P. O. Box 6110

SECC. Hiring

HIRING REPRESENTATIVES IN

ECUADOR

OF AMERICAN ISRAELI

SHIPPING Co. INC.

NEW YORK

YOUR REF. (SU REF.)

OUR REF. (NTRA. REF.)

ENCLOSED (ANEXADO)

1-212 432 0610

October 16th, 1973.

IMMIGRATION AND POLICE
DEPT., Miami A. Port &
New York City, U.S.A.

Gentlemen :

The bearers of this Note is M/s. CLEMENTE PAZMIÑO, LUIS PAZMIÑO, AB's., PEDRO LINO, AB., and FIREMAN, and JOSE PADILLA STEWARD from our Rank and File whom are contracted to work on board M/V. ZIM GENOA on accordance with instructions from our a.m. Principals from New York, ZIM-AMERICAN ISRAELI SHIPPING Co. Inc., 42 Broadway, New York 10004.

This crew are travelling thru Miami, Fla., in order to take the final flight that will take them to their final destination at New York City to catch the a.m. vessel.

With this in mind we appreciate paying this crew every possible assistance that they may locate and engage their vessel with all possible expedience and safety.

With best thanks and regards, we are,

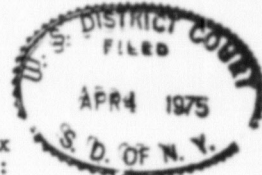
Yours Respectfully,

[Signature]
Sergio Rósero Acuña,
Manager.

SRA/R.
c.c.:file.

Exhibit 1
479

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x		
THOMAS I. FITZGERALD, Public Administrator	:	
of the County of New York, State of New	:	71 Civil 2992
York, as personal representative of the	:	(ELP)
estate of JACINTO VICENTE MEJIA RENTERIA,	:	
	:	
Plaintiff,	:	—
	:	
-against-	:	
	:	AFFIDAVIT
ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI	:	
NAVIGATION CO., ZIM ISRAEL NAVIGATION	:	—
CO. LTD., ZIM LINES and AMERICAN-ISRAELI	:	
SHIPPING CO., INC.,	:	
	:	
Defendants.	:	
	:	
-----x		

STATE OF NEW YORK,)
 : ss.:
COUNTY OF NEW YORK,)

ROBERT S. BLANC, being duly sworn, says:

I am a member of the firm of HILL, BETTS & NASH, attorneys for the defendants herein, and I submit this affidavit on behalf of the Zim-American Israeli Shipping Co., Inc. (ZAISCO) in reply to the answering affidavit of the plaintiff's attorney, Thomas M. Breen, to said defendant's motion for summary judgment for failure to assert a meritorious claim.

Plaintiff's attorney alleges he knows neither who employed the plaintiff's decedent nor on whose vessel said decedent was employed. After three years of open discovery and admissions by the defendants this can only be termed a feigned ignorance.

In its motion for summary judgment ZAISCO has submitted the following evidence on the issue of ownership of the vessel and employment of the deceased: (1) the affidavit of

Egon Gruenhut, executive vice president of ZAISCO and attorney in fact for Zim Israel; (2) a copy of the relevant pages of Lloyd's Register of Shipping; and (3) a copy of the employment contract between Zim Israel and the decedent. The evidence therein conclusively establishes that Zim Israel owned, operated and controlled MV DAHLIA and employed the decedent.

In opposition to ZAISCO'S motion for summary judgment plaintiff's attorney offers no evidence but merely his own affidavit denying the validity of the evidence submitted in ZAISCO'S motion.

In this affidavit plaintiff's attorney refers this court to three meaningless pieces of correspondence and a number of cancelled checks from which his utter confusion is allegedly derived. (Exhibits 3 and 4 to plaintiff's answering affidavits.)

As has been explained, ZAISCO is a disclosed husbanding agent for Zim Israel. One of the functions which it performs for its principal is arranging for the hire of seamen for Zim Israel's vessels. In doing so it has subagents or contracting parties in the various ports where seamen are found. For this reason the Ecuadorian agents direct their correspondence to ZAISCO with respect to the hire of seamen. The agents in Ecuador (Rony Almeida of Maritime Enterprises and Sergio Rosero of Trans-seas) are themselves ex-seamen. Their simple communications were not meant to be interpreted as legal documents and are certainly not probative of what the plaintiff's attorney contends. The fact cannot be ignored that the contract which plaintiff's decedent signed was with Zim Israel of Haifa, the true principal.

Since these letters by themselves are without probative value and plaintiff's attorney does not intend to call the authors to testify at trial they are insufficient to defeat a

motion for summary judgment.

With respect to the cancelled checks submitted as Exhibit 4 to the answering affidavit, ZAISCO issued them as agent. The checks were issued in consideration of a release executed by the decedent's widow. The release runs to ZAISCO'S principal, Zim Israel. (A copy of the release is attached hereto as EXHIBIT A.) The checks by themselves are probative of nothing and raise no question of fact.

Plaintiff's attorney is totally without proof and wholly unable to prove that it was ZAISCO who owned MV DAHLIA and employed the plaintiff's decedent. Defendants' proof establishes without a doubt that Zim Israel owned, operated and controlled the vessel and employed the decedent. The fact that plaintiff's attorney obstinately refuses to acknowledge that which is both proven and common knowledge does not establish a question of fact. Under Rule 56(e) plaintiff has utterly failed to meet his burden and the causes of action against ZAISCO should be dismissed as wholly without merit.

WHEREFORE, it is respectfully submitted that the motion of Zim-American Shipping Co., Inc. for summary judgment for failure to state a meritorious claim must be granted.

Sworn to before me this
4th day of April, 1975.

) Robert S. Blane

Kevin J. Borden

KEVIN J. BORDEN
Notary Public for the State of New York
Qualified in New York City
Commission Expires March 1977

RELEASE OF ALL CLAIMS

READ CAREFULLY

By signing this you give up EVERY right you have.

I, Betty Luna / Men, Age 60
(Here Claimant should write (if he can) his own name and age)

Married
(Claimant should write here whether she is married or single)

Address Francisco de Marcos No. 2714 I Abel Castillo

for and in consideration of the sum of TWENTY-FOUR HUNDRED U.S.

----- DOLLARS (\$ 2,400.00)

lawful money of the United States of America, the receipt of which is hereby acknowledged, do hereby for myself individually and as the widow of Jacinto Vicente Mejia Renteria and for his child,

release and forever discharge
(Here the Claimant, if he can write, should write the word "release" to indicate his understanding of what he is doing)

Zim Israel Navigation Co., Ltd., and MV "DAHLIA"

(Here insert Full Names of Persons, Corporations or Partnerships to be released)

and their heirs, executors, administrators, successors and assigns, and their several steamships and in particular the Steamship MV "DAHLIA" and the owners, agents, charterers, master, officers and crew, of said Steamships

of each and every right or claim which I now have, or may hereafter have, because of any matter or thing which happened before the signing of this paper; and particularly, but not in limitation of any of the foregoing general terms because of injuries sustained by Jacinto Vicente Mejia Renteria on April 19, 1968, while he was employed as a galley boy on the MV "DAHLIA", as a result of which he died on April 22, 1968.

THIS IS A RELEASE

I am giving up every right I have.

I know that in signing this release I am taking the risk that I may have other injuries from the accident that I do not now know of. I also know that I am taking the risk that the injuries I do know of may be or may turn out to be worse than they seem to me now. I accept all these risks. I know I am giving up the right to any further money. I am satisfied.

I further warrant that the above mentioned sum is received by me in full settlement and satisfaction of all the aforesaid claims and demands whatsoever.

The following is to be filled in by the Claimant himself in his own handwriting, if he can write.

1. Have you read the foregoing paper? A. YES
(Claimant may write here either "yes" or "no")

2. Has the paper been read to you? A. YES
(Claimant may write here either "yes" or "no")

3. Do you understand the nature of the paper? A. YES
(Claimant may write here "yes, I do", according to his understanding)

4. What is your understanding of the nature of the paper? A. YES

5. Do you understand that signing this paper settles and ends EVERY claim you have for DAMAGES as well as for maintenance, cure and wages? A. YES I DO
(Claimant may write here "yes, I do", according to his understanding)

In witness whereof I have hereunto set my hand and seal this 24th of November of

day of November 1968

THIS IS A RELEASE

Betty Luna de Men (SEAL)

EXHIBIT A

Claimant, if he wishes to sign, should write his name upon the words
"THIS IS A RELEASE" immediately above.

without prejudice as to
only for \$2,400.00
under the policy subject
terms and conditions.
J. D. Luna
J. D. Luna & Co., INC.
J. D. Luna & Co., INC.

Certificate of Witness

We, the undersigned, do hereby certify that the Release on the reverse side of this paper was executed in our presence and that said Claimant acknowledged that she (he or she) fully understood its contents and meaning and executed the same as her (his or her) free act and deed and for the sole consideration therein expressed.

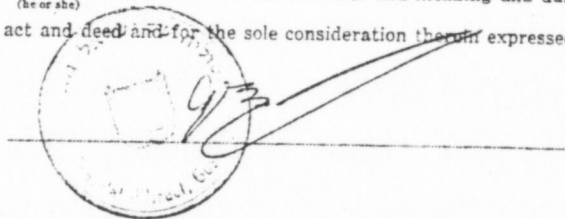
WITNESS our hands, and seals on the day, month and year aforesaid.

<u><i>Gerardo Narvaiz</i></u> (SEAL)	<u>Barrio San Juan</u>
<small>Name</small>	<small>(Address)</small>
<u><i>[Signature]</i></u> (SEAL)	<u>Barrio No. 1717</u>
<small>Name</small>	<small>(Address)</small>
<u><i>[Signature]</i></u> (SEAL)	<u>Barrio No. 2,000</u>
<small>Name</small>	<small>(Address)</small>

Acknowledgment Before Notary Public or Commissioner of Deeds

STATE OF _____ }
COUNTY OF _____ } SS.:

On the date of the execution of the Release on the reverse side of this paper before me personally came said Claimant known to me to be the individual described in and who executed this Release, and acknowledged that she (he or she) fully understood its contents and meaning and duly executed the same as her (his or her) free act and deed and for the sole consideration therein expressed.



Certificate of Interpreter

I hereby certify that the Release on the reverse side of this paper was executed in my presence by said Claimant and that I correctly and accurately translated the entire Release from the English language into the mother tongue of said Claimant and she (he or she) acknowledged that she (he or she) fully understood its contents and meaning and executed the same as her (his or her) free act and deed and for the sole consideration therein expressed.

Dr. Alfonso Louiza Jr.
INTERPRETER
Dr. Alfonso Louiza Jr.

ADDRESS Bulldo 2215-1 Tuncurana

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
Thomas I. Fitzgerald, Public Administrator of the County of New York, State of New York, as personal representative of Jacinto Vincente Mejia Renteria 71 Civ. 2992
Judge Palmieri

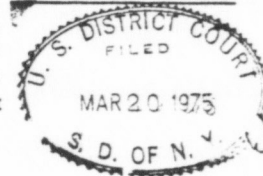
Plaintiff,

vs.

Zim Israel Navigation Co., Ltd., et al.,

Defendant.

NOTICE OF MOTION



-----x
S I R S :

PLEASE TAKE NOTICE, that upon the annexed affidavit of ROBERT S. BLANC, sworn to on the 19th day of March, 1975 and upon all the pleadings heretofore had herein, the undersigned will move this Court before the Honorable Edmund L. Palmieri, United States District Judge, at Room 2703 of the United States Court House, Foley Square, in the Borough of Manhattan, City of New York, on the 3rd day of April, 1975 at 10:00 o'clock in the forenoon of that day or as soon thereafter as Counsel can be heard for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing this action: 1) for lack of subject matter jurisdiction and; 2) as time barred, or in the alternative; 3) for an order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, dismissing this action on the ground of forum non conveniens, and for such other and further relief as the Court may deem proper.

Dated: New York, New York
March 19, 1975

Yours etc.

HILL, BETTS & NASH

By Robert S. Blanc
A Member of the Firm
Attorneys for Defendants
One World Trade Center
Suite 5215
New York, New York 10048

To: Thomas M. Breen, Esq.
Attorney for Plaintiff
160 Broadway
New York, New York 10038

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Thomas I. Fitzgerald, Public Administrator
of the County of New York, State of New York, as personal representative of Jacinto
Vincente Mejia Renteria, : 71 Civ. 2992
Judge Palmieri

Plaintiff, :

vs. : AFFIDAVIT

Zim Israel Navigation Co., Ltd., et al. :

Defendants. :
-----X

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

ROBERT S. BLANC, being duly sworn, says:

I am a member of the firm HILL, BETTS & NASH, attorneys for defendants Zim Israel Navigation Co., Ltd. and Zim American Israeli Shipping Co., Inc., in the above captioned action, and submit this affidavit in support of defendant Zim Israel Navigation Co., Ltd.'s motion for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing this action:

- 1) for lack of subject matter jurisdiction and;
- 2) as time barred, or in the alternative;
- 3) for an order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure dismissing this action on the grounds of forum non conveniens.

Plaintiff is the Public Administrator of the County of New York. Plaintiff brings this action as personal representative of the Estate of Jacinto Vincente Mejia Renteria for the benefit of dependants and next of kin. Plaintiff's standing stems from the allegation that decedent died possessed of a cause of action in New York against said defendant. The alleged cause of action arises under the Jones Act (46 USC 688 et. seq.), Death on the High Seas Act (46 USC 761 et. seq.) and the General Maritime Law

of the United States.

The transaction giving rise to the action is the injury and death of the decedent aboard the MV DAHLIA on April 23, 1968 while employed as a seaman by said defendant.

The facts reveal not one contact between the decedent and the United States.

Decedent was a citizen and resident of Ecuador. His dependants and next of kin are also citizens and residents of Ecuador.

Decedent's contract of employment with said defendant were entered into and executed in Ecuador. The governing law provided for in said contract is the law of Israel.

Decedent commenced his voyage aboard said defendant's vessel MV DAHLIA in Panama. He was injured 500 miles east of Japan and died in international waters. He never entered United States waters while employed aboard said vessel.

Said vessel sails under the flag of Israel. The vessel is registered with Lloyd's Register of Shipping as Israeli.

Said defendant is a corporation existing under the laws of Israel and at all times has been the sole owner, operator and controller of said vessel.

Plaintiff's sister Mercedes Alvarez Renteria commenced suit by service of a summons and complaint on July 6, 1971, more than three years after the injury and death of the decedent.

Plaintiff, in his complaint, alleges that this court has jurisdiction over this cause of action because said defendant was organized by Americans [par. 58]; is owned, [par. 49] operated and controlled by Americans [par. 54]; said defendant and said vessel have their principal contacts with the United States [par. 43]; and that the flag of Israel is in this instance one of convenience [par. 56].

Plaintiff's allegations remain unsupported and wholly without merit after more than three and one half years of discovery.

The intimate relationship between said defendant and the State under whose law it exists is well known. Defendant was organized by the Jewish residents of Palestine in 1945 to carry refugees from Hitler's Europe to Palestine for the purpose of realizing an independent State of Israel. That State was born in war and to date has had its land borders closed on all sides. Israel's only commercial highway is the sea. In time of war non-Israeli ships fear to enter Israeli ports. It is therefore essential to Israel's national survival that it maintain a national merchant marine. Said defendant is Israel's merchant marine. In that role defendant maintains 19 permanent shipping lines, 16 of which are to and from Israel. In 1968 these lines transported 46% of Israel's foreign trade.

Defendant's base of operations and principal place of business is in Israel, all of defendant's officers are Israeli citizens. The stock ownership of defendant is 100% Israeli. Because of said defendant's vital economic role in the State of Israel, the ownership, management and control have always been Israeli. At the time of decedent's death 80% of the stock of defendant was held by the government of Israel.

Defendant has been burdened, harassed and oppressed with the cost and inconvenience of this action to date in order to comply with this court's directive to offer plaintiff every opportunity to support his contentions through the liberal discovery procedures provided by the Federal Rules of Civil Procedure.

The continuation of this action in the United States would be an unfair burden on this defendant.

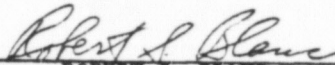
A trial of this action would be completely dependent on foreign fact witnesses. The witnesses to the accident are in Ecuador. The witnesses to the release given by the decedent's widow to the defendant are in Ecuador. None of the above are subject to the process of this court. Only with great expense can these witnesses be brought to this jurisdiction. None of

these witnesses speak English and so the trial would be further burdened by interpreters. The defendant has other witnesses in Greece and Israel.

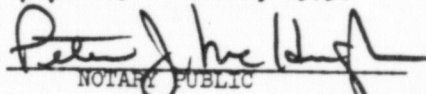
The Court in a trial of this action would be asked to determine complex questions of Israeli law.

The defendant agrees to submit to the jurisdiction of the courts of either Ecuador or Israel for a trial of this action and hereby agrees to waive any jurisdictional or limitational defenses it may have. Process can be served on defendant's Guayaquil agent for a trial of this action in Ecuador.

For the reasons stated in the annexed memorandum of law it is respectfully submitted that this court should grant said defendant's motion and dismiss this action pursuant to Rule 56 or in the alternative decline jurisdiction pursuant to Rule 12b and dismiss this action on the ground of forum non conveniens.


ROBERT S. BLANC

Sworn to before me this
19th day of March, 1975.

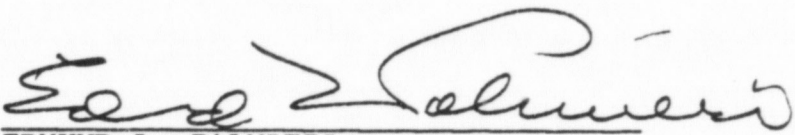

NOTARY PUBLIC

PETER J. McHUGH
Notary Public, State of New York
No. 24-7544245
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1976

FITZGERALD v. ZIM ISRAEL NAVIGATION CO., ET AL.
71 Civ. 2992 (ELP)

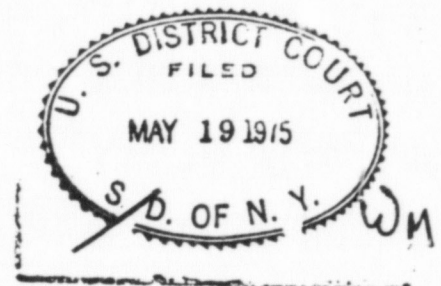
Motion granted. See opinion dated May 16, 1975,
filed herewith.

Dated: New York, N. Y.
May 16, 1975

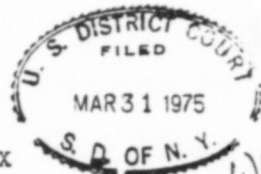

EDMUND L. PALMIERI
U. S. D. J.

MICROFILM

MAY 19 1975



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X
Thomas I. Fitzgerald, Public Adminis- 71 Civ. 2992
trator of the County of New York, State :
of New York, as personal representative
of Jacinto Vincente Mejia Renteria : Judge Palmieri

Plaintiff, :

vs. :

Zim Israel Navigation Co., Ltd., et al, :
Defendant. :
----- X

Answering
Affidavit
to Motion
on Forum non
Conveniens

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

Thomas M. Breen, being duly sworn, deposes and
says:

I am the attorney for the plaintiff, and I am
submitting this affidavit in opposition to the motion of the
defendant ZIM ISRAEL NAVIGATION CO., LTD. under Rule 56.

First of all with reference to the stock owner-
ship of the defendants. In answer to plaintiff's interrogatory
No. 13, the defendant stated that Zim Israel Navigation Co.
Ltd. was owned 50% by the Israel Corporation. After the
plaintiff moved for the names and addresses of the stockholders
of the Israel Corporation, the answer submitted by the
defendants on October 15, 1974, was, "said defendants have no
knowledge".

Your deponent went to the offices of the
Securities and Exchange Commission, 26 Federal Plaza, New
York City and found a prospectus issued by the Israel Corporation
Ltd. - a copy of seven pages of this prospectus is attached
as Exhibit 1. Page 18 of this prospectus shows that six of
the directors were Americans, page 19 shows four Americans
and page 20, one American. On page 32, three Americans are
listed as original subscribers to the stock of the Corporation.

The price of the stock originally was \$100,000.00 a share. The original subscribers were seven.

Your deponent took the deposition of the Israel Corporation by Harvey M. Kruger, a director of that corporation and a partner in Kuhn Loeb and Co. 40 Wall Street, New York City. On the advice of his counsel, Mr. Kruger refused to answer questions about the ownership of stock in the Israael Corporation by the directors mentioned in the prospectus and by other Americans. At page 21 of his deposition, he guessed that 15% of the equity was owned by Americans, although he had told me in a telephone conversation that Americans owned a substantial amount of stock in the Israel Corporation. The attorneys for the defendants were present at this deposition.

During his examination, Mr. Kruger referred to the annual report of the Israel Corporation for 1973. Your deponent has indicated by an arrow, the pertinent excerpts about the investment - both stock and loans - to Zim Israel Navigation Co. Ltd. page 15. - current assets segregated for investment 1,500,000 Israeli pounds.

Page 16 - note 5

Page 17 - mortgages on three ships

Page 25 - amounts lent by the shareholders on the mortgages

Page 31 - contingent liability for Zim Israel Navigation Co. Ltd.

Page 18 - balance sheet for Zim Israel Navigation Co. Ltd.

All these pages are attached as Exhibit No. 2

Without a doubt, these documents indicate that American citizens through stock purchases and loans from the Israel Corporation have a substantial continuing interest in the defendant Zim Israel Navigation Co. Ltd.

The decedent's widow has always insisted that American Israeli Shipping Co., Inc. was the employer of her husband. This is a New York Corporation - 100% owned by Zim Israel Navigation Co. Ltd. Attached are documents that the widow received from the agents of the defendants in Ecuador after her husband died. - Exhibit No. 3.

The Certificate of Maritime Enterprise in Guayaquil dated June 11, 1968 indicates that the agent knew that American Israeli Shipping Co. Inc. of New York was the owner of the vessel and the employer of the decedent. The telegram of April 25, 1968 is addressed by the agent to ISRASHIPS in New York. The third telegram is a notice to the Guayaquil agent about the death of the decedent.

When Mrs. Mejia agreed to sign the alleged release, she received the sum of \$2,400.00. Attached are the voucher and check in payment of this money - both issued out of New York. Exhibit No. 4. - Mediterranean Agencies, Inc. - the drawer of the check was an affiliate of the defendants that was later absorbed - after dissolution - into their corporate empire.

At Port Newark, New Jersey, on November 23, 1974, the defendants took the testimony of Captain Mendelson who was Master of S.S. DAHLIA at the time the decedent was aboard the vessel. The following is from pages 44 and 45 of the deposition:

"Q - Do you know whether or not Rony J. Almeida was the agent for the American - Israeli Lines, Inc.?

A - You mean the agent in Ecuador?

Page 45 Q - Yes. A - No. I just know his name from the copies of the contracts we get of the crew, but I don't remember that I had at any time any contact with him because everything went through our New York office.

Page 45 of Captain Mendelson's testimony cont'd.:

Q - I see A - All the hiring and firing
and discharging and everything.

Q - That was Zim's New York Office?

Mr. Blanc: I object to that question by counsel.
I move that it be stricken."

These excerpts of the Captain's testimony and
the exhibits show that actual ownership and employment are
questions of fact and not to be decided on a motion for
summary judgment.

The defendants have suggested that this case
can be tried in Israel or Ecuador. Annexed are three
letters from the head office of the National Insurance
Institute in Israel - Exhibit 5. The following quote is from
the letter of 20 November, 1973:

"In accordance with the National Insurance Law,
a person who is not an Israeli resident and died from an
accident abroad, is not insured in the Employment Injury
Insurance Branch and his survivors are not entitled to any
benefits from the National Insurance Institute."

When the defendants had the decedent sign
an employment contract in which he agreed to be bound by the
law of Israel, the defendants rejected the law of Ecuador.
Now, the defendants want the law of Israel applied - as the
excerpt from Exhibit 5 shows, the law of Israel is barren
of any decent remedy. This is forum-shopping by the defendants.
in its worst phase. Also there is no guarantee of a jury
trial or that the law of comparative negligence prevails.

This action has been pending in this Court for about four years. During this time the plaintiff has taken the testimony of two witnesses, the defendant produced the Master of the ship. In its list of witnesses on page 4 of the pre-trial memorandum, Zim refers to the second mate. The defendants could have produced the second mate before this time just as it produced the Master. The other witness listed by name is Dr. Merrill S. Chernov - a U.S. Coast Guard Doctor. The plaintiff has obtained a certified copy of the U.S. Coast Guard record including the findings of Dr. Chernov.

The widow of the decedent is living in New York City. Let me add that your deponent did not pay the widow's transportation here nor induce her to come here, as suggested in the memorandum of law of the defendants. It is significant that the motions of the defendants were not made until the eve of trial. Contrary to the statements on page 22 of the memorandum of law, the decedent's widow has been residing here for some time. The statement about the institution of the suit - also at page 22, simply is not true. The widow herself verified the answers to the interrogatories.

After a long delay, a Doctor from the U.S. Coast Guard boarded the vessel in order to treat the injured seaman. Several days after his death, the body was transferred to Honolulu, Hawaii for an autopsy by an American Doctor. The logs of the ship are in the English language. The destination of the vessel was New York. At the time, I examined Captain Mendelson in Port Newark, he spoke English.

Annexed are pages from the Thirtieth Annual Report of AMPAL - the American Israel Corporation - for the period between 1942 and 1971 (exhibit 6 six sheets). The second sheet, referring to the financial highlights of the AMPAL Group, indicates the motto of this corporation in the top center of the sheet "American Capital for Upbuilding of Israel". Sheets three and four state that the Israel Corporation now holds 50% of the shares of the Zim Israel Navigation Co. Ltd. (The Israel Corporation is the same corporation referred to in exhibit 1 and exhibit 2 that accompany this affidavit.) Also on sheet No. 4 is a summary of the financial condition of the Zim Israel Navigation Co. Limited. Sheet 5 of exhibit 6, Item 6 shows the amount of investment in American Israel Shipping Co. as \$390,000.00; Item 76 shows the investment in Zim Israel Navigation Co. Ltd. as \$10,336,492.03. Sheet 6 of the same exhibit indicates that most of the directors and officers are residents of the United States.

Examination of exhibits 1, 2 and 6 demonstrate the heavy participation of American citizens - both by stock and other financing - in both defendants.

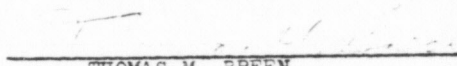
The decedent died aboard the vessel in April, 1968. Almost seven years have gone by and it is unfair for the defendants to ask for the transfer of this case to countries where no certain remedy is shown to exist for the widow and her daughter.

WHEREFORE, your deponent respectfully requests:

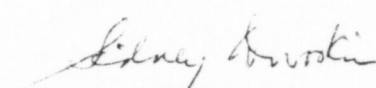
1. All the motions of the defendants be denied;

2. The answer of the defendants be stricken for failure to reveal American stockholdings in the defendant Zim Israel Navigation Co. Ltd.

3. Such other and further relief as the justice of this cause may require.


THOMAS M. BREEN

Sworn to before me this
28th day of March, 1975


SIDNEY DWORKIN
Notary Public, State of New York
No. 24-6130720
Qualified in Kings County
Commission Expires March 30, 1976

PROSPECTUS

JUN 3 1969

0700825

RECD-S.E.C.

85,000 Ordinary Shares, Series "A"
(Par Value \$1,000 Per Share)

JUN 2 - 1969

THE ISRAEL CORPORATION LTD.

An Israel Corporation (hereinafter "the Company")

Authorized Capital \$100,000,000

Subscriptions to the Ordinary Shares, Series "A" offered hereby (hereinafter the "Ordinary Shares") will be accepted only in units of 100 shares each. The initial payment for the shares will be 25% of the purchase price and the remainder of the purchase price will be payable in three equal installments, payable at equal intervals by each subscriber, from the date of actual subscription until June 30, 1970, i.e. the date of the closing of the subscription list.

Until fully paid, the Ordinary Shares are transferable only with approval of the Company.

In view of the fact that the list of subscribers will be open until June 30, 1970, the Directors decided to recommend to the general meeting of the Company at which the declaration of a dividend will be made for the first time, whenever such meeting may be held, that the first dividend to be paid to holders of Ordinary Shares shall be paid in proportion to the length of time which elapsed from the date on which each installment was actually paid by the subscriber until June 30, 1970. (See "Liability to Payment of Installments and Assessments", "Terms of Offering" and "Transferability of Shares", pages 17, 21 and 22 herein).

There is presently no public market for the Ordinary Shares of the Company. The Company is a recently organized corporation and has not yet begun operations.

For certain aspects of this Offering, see "Risk Factors Relating to the Offering", page 4 herein.

The consent to the registration of the Ordinary Shares of the Company in a currency other than Israel pounds has been obtained under Section 5 of the Companies Ordinance of Israel.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Price to Public	Underwriting Discounts and Commissions (1)	Proceeds to Company (2) (3)
Per 100 Share Unit	\$ 100,000	None	\$ 100,000
Total	\$35,000,000	None	\$35,000,000

(1) The Company does not expect to use the facilities of any underwriters or dealers in order to sell the Ordinary Shares of the Company offered hereby. The offering will be made solely by directors, officers and employees of the Company. Such directors, officers and employees of the Company shall be paid no underwriting commissions in connection with such sales. No sales are final unless at least 120 units of 100 shares each are sold within 120 days. If shares are not sold prior to that time, the purchase price will be refunded in full except in the case of the original subscribers who will bear the expense of this offering to the extent of the amounts of their subscriptions (i.e. \$20,000) in that event. See "Minimum Subscription", page 30 herein. The proceeds will also be returned in the event certain special legislation pertaining to the Company does not become law or should be enacted providing for conditions materially less beneficial than those proposed. (See "Special Legislation With Respect to the Company, Taxes and Israel-Poland Exchange Control" page 12.)

(2) Before deducting expenses payable by the Company estimated at \$200,000.

(3) Eighty percent of the capital of the Company is to be raised outside of Israel, and twenty percent in Israel. The Controller of Foreign Exchange of the Government of Israel has confirmed that Israeli residents may acquire shares in the Company in Israel pounds calculated at the official rate of exchange between the Israel pound and the U.S. dollar prevailing at the time of payment. (See "Terms of Offering" page 21 herein.)

A copy of this Prospectus has been delivered to the Registrar of Companies for registration. Consent to the issue of the shares offered hereby has been obtained under Regulation 8 of the Defence (Finance) Regulations 1941.

The date of this Prospectus is May 27, 1969.

Exhibit I

679

<u>Name and Address</u>	<u>Office</u>	<u>Principal Occupation for Past Five Years</u>
Victor M. Carter* 7230 Franklin Avenue Los Angeles, Calif.	Director	Personal investment; civil and philanthropic activities, from 1938 to 1967, President and Chairman of the Board of Republic Corporation.
Charles Clore 22 Park Street Park Lane London W.1, England	Director	Chairman of the Board of Directors, Sams Holding Ltd., London; Director H.M. Samsel Co., Ltd., London.
Abraham Dickstein 17 East 71st Street New York, New York	Director	President of Ampel-American Israel Corporation, New York; President of Israel Development Corporation, New York; Chairman of the Board of Directors of Israel American Industrial Development Bank Ltd., Tel Aviv; Managing Director of Bank Hapoalim, B.M.
Aharon Dovrat 1, Eli Cohen Street Jerusalem, Israel	Director	Managing Director, Chal-Israel Investment Company Ltd.; prior thereto Director of Industry Division, Ministry of Commerce and Industry, Government of Israel.
Shosh Nehemia Eisenberg 62 Yehuda Halevi St. Tel Aviv, Israel	Director	President of the Eisenberg group of companies.
Abraham Feinberg 562 Fifth Avenue New York, New York	Director	Chairman of the Executive Committee, American Bank & Trust Company, New York.
Jacob Feldman Commercial Metals Co. P.O. Box 1046 Dallas, Texas	Director	President, Commercial Metals Company, Dallas.
Moses Bernard Gitter 18 Mahara! Street Tel Aviv, Israel	Director	Chairman of the Board and Managing Director, The Israel Development and Mortgage Bank Ltd., Tel Aviv; Vice-Chairman of Board of Directors, Discount Bank Investment Company, Ltd., Tel Aviv.
David Golan 4 Noyot Street Jerusalem, Israel	Director	Director General, Ministry of Commerce and Industry, Government of Israel. Formerly Director, International Cooperation Division, Ministry of Foreign Affairs, Government of Israel.
Ira Golden 595 Madison Avenue Suite 900 New York, New York	Director	President, Baldwin Securities Corporation, New York.
Ernest J. Japhet 89, Haashel Street Herzlia Pituach, Israel	Director	General Manager, Bank Leumi L.-Israel, B.M., Tel-Aviv.
Ludwig Jeandson 299 Park Avenue New York, N. Y.	Director	President and Chairman, Philipp Jeandson, New York, N. Y.

<u>Name and Address</u>	<u>Office</u>	<u>Principal Occupation for Past Five Years</u>
Harvey M. Krueger Kuhn, Loeb and Co. 40 Wall Street New York, New York	Director	Partner, Kuhn, Loeb and Co., New York.
Jacob Levinson* 50 Rothschild Blvd. Tel Aviv, Israel	Director	Acting Chairman of the Board and Managing Director, Bank Hapoalim, B.M., Tel Aviv since 1968; prior thereto Director of the Economic Department of "Hevrat Ovedim" Ltd., Tel Aviv.
Victor Loeb Gehr. Loeb A.G. Spitalgasse 47-51 Berne, Switzerland	Director	Chairman and President, Gehr. Loeb A.G., Berne, Switzerland, department stores.
Hermann Merkin 30 Broad Street New York, N. Y. 10004	Director	Member, New York Stock Exchange.
Joseph Nahmias 44, Ave de President Kennedy Paris 16e, France	Director	Industrialist.
David Recanati* 29 Ben-Zion Blvd. Tel Aviv, Israel	Director	Chairman and Managing Director, Israel Discount Bank Ltd., Tel Aviv.
Samuel Rothberg* 4739 Grandview Drive Peoria, Illinois	Director	President, Israel Investors Corporation, New York; Director, The American Distilling Company, New York.
Edmund L. de Rothschild, T.D. New Court St. Swithin's Lane London E.C.4, England	Director	Senior Partner, N. M. Rothschild and Sons, London.
Meir Sherman Paz Oil Company Ltd. 3 Jaffa-Tel Aviv Road Tel Aviv, Israel	Director	Managing Director of Paz Oil Company Ltd., Haifa; Director, Bank Leumi le-Israel B.M., Tel Aviv; Director, First Israel Bank and Trust Company of New York, New York.
Philip Sporn 140 Broadway Suite 42C1 New York, New York	Director	Director and Consultant, American Electric Power Company; until May, 1967 Director, member of the Executive Committee, Chairman of the System Development Committee of American Electric Power Company.
Zalman Sussayeff 19 Shamir Street, Afula Tel Aviv, Israel	Director	President of the Manufacturers Association of Israel; Industrialist; Chairman, Committee for Coordination of Business Associations.
David Tanne 32 Givati Street Ramat-Chen, Israel	Director	Director General, Ministry of Housing, Government of Israel; Chairman, Tufahot Israel Mortgage Bank Ltd., Jerusalem; Chairman, Housing and Development for Israel Ltd., Tel Aviv.

<u>Name and Address</u>	<u>Office</u>	<u>Principal Occupation for Past Five Years</u>
Oscar van Leer Van Leer Group of Companies P.O.B. 25 Amstelveen, Holland	Director	President, Van Leer Group of Companies; Director, N.V. Optische Industrie "de Oude Delft", Delft, The Netherlands.
Sir Sigmund George Warburg S. G. Warburg & Co. Ltd. 30 Gresham Street London E.C. 2, England	Director	Merchant Banker.
Dr. George Wise Tel Aviv University Ramat Aviv, Tel Aviv, Israel	Director	President of the Tel Aviv University; Presi- dent of Inter-American Paper Co., New York.
Robert Wisniewski 277 Park Avenue New York, New York	Director	Chairman of the Executive and Finance Com- mittees, Witco Chemical Corporation, New York.
Asher Yadin 11 Lesin Street Tel Aviv, Israel	Director	Secretary General, "Hevrat Ovdim", Ltd., Tel Aviv since March 1966; formerly Adminis- trative Manager of "Kupat-Cholim", Health Organization.
Jehoshua Talmon 19 Alfasi Street Jerusalem, Israel	Secretary	Secretary of the Company since January 30, 1969; prior thereto Vice-Director, Enesco Corporation Ltd., Zurich from July 1965- December 1968; Financial Secretary, The Hebrew University of Jerusalem from Jan- uary 1959 to June 1966.
Michael Sefra 22 Kaf Tet Benveniste Street Tel Aviv, Israel	Assistant Secretary	Assistant Secretary of the Company since Sep- tember 1968; prior thereto law student and law clerk.

Remuneration of Directors and Officers

The Company has made a number of employment contracts with a number of its officers and employees.

No officer or Director is currently receiving a salary in excess of \$30,000 per year, and the aggregate amount of cash remuneration expected to be paid to all Directors and officers as a group by the Company during the first 12 months of its operation is approximately U.S. \$40,000.

The Company has made arrangements for a provident fund for the benefit of some of its officers and members of its staff.

Number of Directors and Term of Office

The Articles of Association of the Company provide that the number of directors shall be not less than thirty (30) and not more than fifty (50), unless otherwise decided by a general meeting; however,

LEGAL OPINION

Legal matters in connection with this offering have been passed upon for the Company by Messrs. Gideon Hausner and Eliahu Likhovski, 15 Shamai Street, Jerusalem, Israel and on matters of United States law by Messrs. Guzik and Boukstein, 37 Wall Street, New York, New York. On matters of Israel law, Messrs. Guzik and Boukstein have relied upon the opinion of Messrs. Hausner and Likhovski.

FINANCIAL STATEMENTS

Messrs. U. Steinberg & Co., Certified Public Accountants of Tel Aviv, Israel, have certified the balance sheet of the Company as at March 31, 1969, and a statement of operating expenses for the period then ended, together with the notes and schedules relating thereto.

The Company will submit annual reports to its shareholders, including a balance sheet and statement of profit and loss, certified by an independent certified public accountant.

3. The liability of members is limited.

4. The capital of the Company is \$100,000,000 (one hundred million U.S. Dollars) divided into 1,000 (one thousand) shares of \$100,000 (one hundred thousand U. S. Dollars) each.

This Memorandum of Association has been framed in the Hebrew and English languages. The Hebrew text however is binding.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

<u>Names, addresses and description of subscribers, Identity Card No. or passport No.</u>	<u>Number of shares taken by each subscriber</u>
1. The Minister of Finance acting for the Government of Israel on behalf of the State of Israel	one share
2. Bank Leumi Le Israel B. M., 19, Herzl St., Tel Aviv	one share
3. Bank Hapoalim B.M., 50 Rothschild Blvd., Tel Aviv	one share
4. Israel Discount Bank Ltd., 27 Yehuda Halevi St., Tel Aviv	one share
5. Victor M. Carter, 10375 Wilshire Blvd., Los Angeles, U.S. Passport Number 649015	one share
6. Samuel Rothberg, 4739 Grand View Drive, Peoria, IL, 61614 U.S.A. by his attorney Mr. Eliahu Likhovski under Power of Attorney dated 30.7.68 signed before the Notary Public, Tel Aviv, Director of Companies	one share
7. Philip Stollman, 2900 W. Maple Troy, Michigan, U.S.A. by his attorney Mr. Gideon Hammer under Power of Attorney dated 30.7.68 signed before the Notary Public, Tel Aviv, Director of Companies ..	one share
8. Total of shares taken	seven

Dated the 29 day of August, 1968

Witness to the above signatures:

Bank Leumi Le Israel B. M.

Israel Discount Bank Ltd.

Bank Hapoalim B. M.

NACHUM SHANIT

Witness to the above signatures:

State of Israel,

Gideon Hammer

Eliahu Likhovski

Victor M. Carter

YEHUDA WEISS

On November 7, 1968, the Company amended its Memorandum of Association by providing that one share of \$100,000 shall be divided into 100 shares of \$1,000 each. Accordingly, each of the subscribers to the Memorandum of the Association now holds 100 shares in the share capital of the Company.

The subscribers to the Memorandum of Association numbers 2 to 7 inclusive, have no interest, other than an interest as shareholders in the property and profits of the Company. The Government of Israel, which is a subscriber, may sell to the Company various interests held by it.

SUBSCRIBERS OF THE DIRECTORS

Dr. Astorre Mayer
Dr. Yeshayahu Foerder
Michael Tsur
Nachum Shumir
Abraham Friedmann
Dr. Jacob Arnon
Hans Bär
Victor Carter
Charles Clore
Abraham Dickenstein
Aharon Devrat
Shaul Eisenberg

Abraham Feinberg
Jacob Feldman
Moses Bernard Gitter
David Golan
Ira Galden
Ernest Japhet
Ludwig Jensen
Harvey Krueger
Jacob Levinson
Victor Loch
Hermann Merkin
Joseph Nahmias

Daniel Racanoff
Samuel Rothberg
Edmund de Rothschild
Meir Sherman
Philip Sporn
Zalman Sengoff
David Tanne
Oscar Van Leer
Sir Siegmund G. Warburg
Dr. George Wise
Robert Wisnick
Asher Yadin

END

THE ISRAEL CORPORATION LTD.

NOTES TO THE FINANCIAL STATEMENTS (Cont.)

NOTE 4 - CURRENT ASSETS SEGREGATED FOR INVESTMENTS

The Corporation segregated, for presentation purposes, part of its current assets for the following projected investments:

	December 31,			1972
	1973	1973	1973	1972
	Shares	Loans	Total	Total
	IL.	IL.	IL.	IL.
<u>S u b s i d i a r y c o m p a n i e s</u>				
Melonot Yam Kinneret Ltd. (Note 5C.(2))	1,000,000	1,000,000	2,000,000	
Yehuda Hotels Ltd.	-	-	-	2,100,000
Zim Israel Navigation Co. Ltd.	-	-	-	1,500,000
Pereg United Industries Ltd.	-	-	-	350,000
<u>A f f i l i a t e d c o m p a n i e s</u>				
Northern Cold Stores Ltd.	-	4,200,000	4,200,000	7,750,000
Israel Petrochemical Enterprises Ltd.	1,500,000	-	1,500,000	-
<u>L i m i t e d p a r t n e r s h i p</u>				
El-Ram Housing Company Established by The Israel Corporation Ltd. and Ashtrom Ltd.	-	5,000,000	5,000,000	5,000,000
<u>O t h e r s</u>				
Mill Cement Works Ltd.	-	1,000,000	1,000,000	-
Insurance Agency London	2,300,000	-	2,300,000	-
	4,800,000	11,200,000	16,000,000	16,700,000

Exhibit 2

NOTES TO THE FINANCIAL STATEMENTS (Cont.)

NOTE 5 - INVESTMENTS - SUBSIDIARY COMPANY
A. Shares
(1) Valuation - see Note 1 A.
(2) Consist of:

	Percentage of interest in		Cost	Excess of net asset value over cost (Note 20)				Total December 31 1973 IL.	Total December 31 1972 IL.
	Voting %	Equity %		At acquisition date	After acquisition date	Total			
				IL.	IL.		IL.		
Zim Israel Navigation Co. Ltd.*	50.0	50.0	58,537,288	8,994,897	29,570,297	38,565,194	97,132,482	89,637,457	
Intergama Finance Co. Ltd.**	56.2	65.0	3,857,913	(2,121,225)	276,400	(1,844,825)	2,013,088	-	
Yehuda Hotels Ltd. ***	66.7	11.8	4,113,000	(582,120)	332,619	(249,501)	3,863,499	2,012,000	
Pereg United Industries Ltd.	50.0	50.0	2,970,701	(618,970)	(1,474)	(620,444)	2,350,257	1,954,319	
Shakir Precision Engineering Ltd****	55.0	50.0	1,000,100	(109,502)	(109,408)	(218,910)	781,190	780,590	
The Israel Corp. Trust Co. Ltd.	100.0	100.0	30,000	-	(35,242)	(35,242)	(3,242)	-	
Orchot Cechavim Ltd.	100.0	100.0	100,000	-	-	-	100,000	-	
Kinneret Hotels Ltd.	100.0	100.0	200	-	(36,331)	(36,331)	(36,131)	-	
			70,609,202	5,563,080	29,995,028	35,559,341	106,169,143	94,384,366	

Under the terms of the acquisition

Under the terms of the acquisition agreement, the Corporation may be committed to pay to "Zim" and to the Government an additional sum to be determined, based upon "Zim's" weighted average profit for the years 1970-1972, of up to IL. 8,462,711 (IL. 5,293,470 to "Zim" and IL. 3,169,241 to the Government). On July 3, 1973, the Government, on its own behalf and on behalf of "Zim", requested the payment of the mentioned sum of IL. 8,462,711. The Corporation has not accepted the above request of payment and as yet no agreement have been reached on the matter.

The minority shareholders have an option until June 10, 1976 to acquire from the Corporation 15% of the total shares issued at the price paid by the Corporation linked to the U.S \$ plus subsequent retained earnings. If the option is fully exercised, the Corporation's interest, including in voting rights, will be reduced to 50%.

This subsidiary is engaged in the erection of an apartment-hotel in Jerusalem at an estimated cost of approximately IL. 66,000,000 to be completed in 1974. All costs and expenses, less any income, incurred during the period of construction, have been charged to the cost of construction of the apartment-hotel. The percentage representing the Corporation's share in equity is based on the proceeds in case of winding up. The Corporation is entitled to 25% of the dividends distributed plus at least 20.4% of the room-pool revenue distribution as defined in the Articles of Association.

The holder of the remaining shares was granted the right to acquire 5% of the voting shares at their nominal value if he will permanently reside in Israel.

Exhibit 2 - 16 -

THE ISRAEL CORPORATION LTD.

NOTES TO THE FINANCIAL STATEMENTS (Cont.)

NOTE 5 - INVESTMENTS - SUBSIDIARY COMPANIES (Cont.)

B. Loans:

(1) Consist of:

	December 31,		Security
	1973	1972	
In U.S. \$	IL.	IL.	
Yehuda Hotels Ltd.	29,400,000	29,400,000	Irrevocable right to register a first mortgage on the apartment hotel building (including fixtures) and land and a first floating charge on all assets. The security has been issued jointly in the name of the Corporation, the lending shareholders (Note 16) and a financial institution.
Zim Israel Navigation Co. Ltd.	13,650,000	28,350,000	IL. 10,500,000-mortgages on 3 ships. The security has been assigned by the Corporation to the lending shareholders (Note 16). IL. 3,150,000 - unsecured.
In local currency Pereg United Industries Ltd.	150,000	-	Irrevocable right to register a first mortgage on the factory building
	43,200,000	57,750,000	
	=====	=====	

(2) Repayments:

Years	December 31,	
	1973	1972
	IL.	IL.
1975	150,000	-
1977-1979	10,122,000	17,472,000
1980-1982	13,818,000	21,168,000
1983-1984	15,960,000	15,960,000
Undetermined	3,150,000	3,150,000
	43,200,000	57,750,000
	=====	=====

THE ISRAEL CORPORATION LTD.

NOTES TO THE FINANCIAL STATEMENTS (Cont.)

NOTE 5 - INVESTMENTS - SUBSIDIARY COMPANIES (Cont.)

(3) Interest rates (per annum):

	December 31,	
	1973	1972
	IL.	IL.
<u>Payable in U.S. \$:</u>		
Eurodollar interbank rate		
plus up to 2%	33,600,000	48,300,000
9%	6,300,000	6,300,000
7%	3,150,000	3,150,000
<u>Payable in local currency:</u>		
17.5% - 19.5%	150,000	-
	43,200,000	57,750,000
	=====	=====

C. Payments on account:

(1) Consist of:

Kinneret Hotels Ltd.	99,800	-
Melonot Yam Kinneret Ltd.	4,198,009	-
	4,297,809	-
	=====	=====

- (2) The Corporation has agreed in principle (no final agreement has as yet been concluded) to acquire a 50% interest in Melonot Yam Kinneret Ltd., a company engaged in the erection of 274 room hotel in Tiberias. The final extent of the Corporation's investment and its composition (shares, loans, etc.) has not as yet been determined.

D. Following is a summary of the Consolidated Financial Statements of the principal subsidiary company, Zim Israel Navigation Co. Ltd., as at December 31, 1973 and 1972:

	December 31,	
	1973	1972*
	(In 000's IL.)	(In 000's IL.)
(1) Balance Sheet		
<u>A s s e t s</u>		
Current assets	216,381	134,999
Investments and long-term loans	31,474	27,566
Fleet	1,443,909	1,080,769
Other assets and deferred charges	47,032	39,682
	1,738,796	1,283,016
	=====	=====
<u>Liabilities and shareholders' equity</u>		
Current liabilities	382,493	241,199
Long-term liabilities	1,059,507	782,256
Reserves	97,661	71,808
Minority interest	730	4,278
Shareholders' equity (including IL. 4,200 perpetual debenture)	198,405	183,475
	1,738,796	1,283,016
	=====	=====

*) Reclassified.

Exhibit 2

THE ISRAEL CORPORATION LTD.

NOTES TO THE FINANCIAL STATEMENTS (Cont)

NOTE 15 - TAXES ON INCOME

- A. According to "The Israel Corporation Ltd. Law - 1969", the Corporation is exempt from Income Tax and Capital Profits Tax for a period of 30 years from its first year of chargeable income up to and including 1999 and is liable to Companies' Tax at a rate not exceeding 28%. (The regular rate of Companies' Tax is 38% for 1973, and 42% from 1974 on). The rate of 28% is limited to a period of 11 years from the year during which a series of shares is offered for sale. (For the series of shares which have been offered until the date of the Balance Sheet, these periods continue up to and including the years 1979 and 1980).
- B. The Corporation, as is the case for any other local company, is not liable to Companies' Tax on income from dividends received from Israeli companies.
- C. Final income tax assessments have not, as yet, been received by the Corporation since its incorporation (1968).

NOTE 16 - LONG-TERM LOANS - SHAREHOLDERS

A. Repayments:

Years	\$	IL.
1977	1,333,333	5,600,000
1978	3,470,000	14,574,000
1979	5,090,000	21,378,000
1980	5,130,000	21,546,000
1981	5,170,000	21,714,900
1982 - 1984	13,806,667	57,988,000
	34,000,000	142,800,000
	=====	=====

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B. Interest rate (per annum):

	IL.
Eurodollar interbank rate plus 0.5 to 1.5%	119,700,000
8%	23,100,000
	142,800,000
	=====

C. Securities (received from subsidiary and affiliated companies and endorsed to lenders (Note 5B., 6B.)):

	December 31,	
	1973	1972
	IL.	IL.
Promissory notes of affiliate guaranteed by a bank	52,500,000	52,500,000
Bank guarantees of affiliate	14,700,000	-
Mortgages on ships of a subsidiary	10,500,000	25,200,000
Debenture on assets of subsidiary and affiliated companies	37,380,000	37,380,000
Specific charge on fixed assets of an affiliated company	3,933,203	-
Unsecured	23,786,797	27,720,000
	142,800,000	142,800,000
	=====	=====

Exhibit 2

NOTES TO THE FINANCIAL STATEMENTS (Cont.)

NOTE 23 - CONTINGENT LIABILITIES AND COMMITMENTS

A. Guarantees for subsidiary and affiliated companies and for the limited partnership:

	December 31,		Guarantee to:	Securities received by the Corporation
	1973 IL.	1972 IL.		
(1) Oil Refineries Ltd.	26,250,000	26,250,000	Bank	Second charge on fixed assets
(2) Israel Petrochemical Enterprises Ltd.	900,000	1,800,000	Oil Refineries Ltd.	-
	500,000	500,000	Customs department	-
(3) Sharir Precision Engineering Ltd.	100,000	100,000	Bank	-
(4) "Limited Partnership" - Issued guarantees	3,425,000	-	Bank and the Ministry of Housing	{ Mortgage on land and building contracts and guarantees from the other partners to the extent of half of the Corporation's guarantees.
Commitment for additional guarantees to be issued	29,075,000	-		
(5) Northern Cold Stores Ltd.	636,000	-	Bank	Charge on fixed assets and guarantees from other shareholder to the extent of half of the Corporation's guarantees.
(6) Intergama Finance Co. Ltd.	1,040,000	-	Shareholders of Intergama Finance Co. Ltd.	
(7) Zim Israel Navigation Co. Ltd.	-	D.M. 37,000,000	Shipyard.	

B. Forward purchases of foreign currency - D.M. 320,000 } (1972 - none)
for and on behalf of a subsidiary H.F.L. 1,600,000 }

C. Commitments under Government Compulsory and Voluntary Loans - IL. 3,300,000 (1972 - IL. 250,000).

D. Commitment to pay IL. 70,000 for shares subscribed in a subsidiary company.

NOTE 24 - INCOME

Consists of:

Dividends
Interest
Gains from sale of marketable securities
Management fees
Other

	Income from			Total	
	Subsidiaries IL.	Affiliates IL.	Other IL.	1973 IL.	1972 IL.
Dividends	5,767,597	6,060,837	-	11,828,434	12,384,039
Interest	5,768,557	7,943,995	3,829,352	17,541,904	11,257,039
Gains from sale of marketable securities	-	-	4,592,291	4,592,291	749,270
Management fees	232,000	75,046	-	307,046	178,750
Other	145,920	-	122,670	268,590	-
	11,911,074	11,079,878	8,544,313	34,538,265	24,569,098

STEINBERG & Co. CPA (Inc.)

Exhibit 2 - 31 -

1973-1974 (1974) 1973-1974

MARITIME ENTERPRISE

General Agencies

HIRING AGENTS OF ECUADORIAN MERCHANT MARINE PERSONNEL AND ANEX - SHIPPING COMPANIES AGENTS AND REPRESENTATIVES -
SHIPBROKERS REPRESENTATIVES - CHARTERING AGENTS REPRESENTATIVES - FORWARDING AGENTS REPRESENTATIVES - NAUTICAL ADVISERS -
MARITIME DOCUMENTATION AGENCY - TRANSLATION AGENCY

Hiring Representatives in Ecuador of AMERICAN - ISRAELI SHIPPING CO. INC., *New York*
and MARITIME OVERSEAS CORPORATION, *New York*

GUAYAQUIL.

Depos.

Our Refs.

Your Refs.

CERTIFICA :

Que el tripulante JACINTO VICENTE MEJIA RENTERIA,
embarcó en el MV' "DAHLIA" de la AMERICAN ISRAELI SHIPPING Co.
Inc. el 8 de Mayo de 1967 en el Puerto de Cristobal C.Z., ha-
biendo fallecido en el mismo buque el 23 de Abril de 1968.

Guayaquil, 11 de Junio de 1968

MARITIME ENTERPRISE

Rony J. Almeida
PRESIDENTE.-

Exhibit 3

HEAD OFFICE: GUAYAQUIL-ECUADOR / Sucre 106 - P. O. Box 6110 - Cable Address MARECUADOR - Tel. 18267

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MARITIME ENTERPRISE

General Agencies

Hiring Agents of Ecuadorian Merchant Maritime Personnel and Anex Shipping
Companies Agents and Representatives Shipbrokers Representatives -
Chartering Agents Representatives - Forwarding Agents Representatives -
Nautical Advisers - Maritime Documentation Agency - Translation Agency

Hiring Representatives in Ecuador of AMERICAN - ISRAELI SHIPPING, CO.
INC., New York, and MARITIME OVERSEAS CORPORATION, New York

Guayaquil,

Dept. _____
Our Ref:
Your Ref:

C E R T I F Y :

That the crew member, JACINTO VICENTE MEJIA RENTERIA,
joined the MV "DAHLIA " of AMERICAN ISRAELI SHIPPING Co. Inc. the
8th day of May, 1967, in the Port of Cristobal. C. Z. , having died on the
same vessel on April 23rd, 1968.

Guayaquil , June 11, 1968

MARITIME ENTERPRISE

Rony J. Almeida
President.

Head Office: Guayaquil-Ecuador, Sucre 106 - P. O. Box 6110 -Cable
Address MARECUADOR - tel. 18267

Exhibit 3
819

ACM-125

All America Cables and Radio

American Cable & Radio System

"Via All America" "Via Commercial" "Via Globe" "Via Mackay Radio"

OFICINAS EN EL ECUADOR

Guayaquil... Calle General Elizalde 107-111
Teléfonos 14117 y 14118

Quito... Calle Venezuela 961-969
Teléfonos 11641 y 11641

Salinas... 1110 1ª Avenida Oeste



NO.
MM.
HORA
PALABRAS
TASA

El presente mensaje... la clase de servicio que desea de lo contrario, se usará el servicio ordinario y se aplicará la tarifa correspondiente.

Urgente ☒ Ordinario ☐ Carta Telegrama ☐

Asociada con la Western Union para los puntos en los Estados Unidos mas allá de nuestras oficinas

HAECUADOR GUAYAQUIL

21R SENTINOS INFORMABLES SU TRIPULANTE MEJIA JACINTO VICENTE MIRIO ABORDO

MYDANIA DESPUES DE HERIDAS SUFIDAS CABEZA PUNTO BANCO HABIENDO ZAPPADO

JAPON ORDENADO POR AUTORIDADES MEDICAS PROSIGA MIDWAY PARA LEVANTAMIENTO

Y AUTOPSIA Y ENVIATA NO HABER FACILIDADES APROPIADAS DE ALMACENAMIENTO

REFUGIADO ABORDO PARA CUSTODIA Y POSIBILMENTE NO HAY FACILIDADES

LEVANTAMIENTO EN MIDWAY FUELE ORDENADO POR AUTORIDADES SANITARIAS SU

ENTERRAMIENTO CEMENTERIO MARINO LOCAL JUNTO AGRADECERE INFORMAR FAMILIA

CUYO NOMBRE DIRECCION EN SUS ARCHIVOS Y CONTINER A NO OTROS / LAUFER EMPASIES

FIRMA DEL REMITENTE

DOMICILIO

Sírvanse transmitir este telegrama, de conformidad con las condiciones al dorso, a las cuales consiento someterme.

Exhibit 3

ALL AMERICA CABLES AND RADIO
American Cable and Radio System

"Via All America" "Via Commercial" "Via Globe" "Via Mackay Radio"

OFFICES IN ECUADOR

Guayaquil : General Elizalde Street 107-11
Tels. 14117 & 114118
Quito: Venezuela Street 961-969
Tels. 11641 & 11681
Salinas: 110 First Avenue West

No.
MM.
TIME
WORDS
RATE

The sender must indicate (with a "X") the class of services that he desires, if not regular service will be used and the corresponding rate will be applicable

Connected with Western Union for points in the United States beyond our offices.

-Urgent X - Ordinary - Letter - Telegram-

MARECUADOR - GUAYAQUIL

21R WE ARE SORRY TO INFORM YOU THAT YOUR SEAMAN MEJIA JACINTO VICENTE, DIED ABOARD THE MV DAHLIA AFTER INJURIES SUSTAINED IN THE HEAD STOP VESSEL HAVING DEPARTED FROM JAPAN ORDERED BY MEDICAL AUTHORITIES TO CONTINUE TO MIDWAY FOR INQUEST AND AUTOPSY AND IN VIEW NOT HAVING SUITABLE FACILITIES FOR REFRIGERATED STORAGE ABOARD FOR CARE AND POSSIBLY THERE ARE NO EMBALMING FACILITIES IN MIDWAY HIS BURIAL COULD BE ORDERED BY THE HEALTH AUTHORITIES IN THE LOCAL MARINE CEMENTERY STOP PLEASE INFORM FAMILY WHOSE NAME AND ADDRESS ARE IN YOUR FILES AND CONFIRM TO US / LAUFER
ISRASHIPS

Signature of the Sender _____ Address _____

Please transmit this telegram in conformity with the conditions on the other side to which I consent

EXHIBIT 3

ACM-42

All America Cables and Radio

American Cable & Radio System

"Via All America" "Via Commercial" "Via Globe" "Via Mackay Radio"

OFICINAS EN EL ECUADOR

Guayaquil.....Calle General Elizalde 107-111
Teléfonos 14117 y 14118
Quito.....Calle Venezuela 941-949
Teléfonos 11041 y 11041
Salinas.....1110 1ª Avenida Oeste



NO.
MM.
HORA
PALABRAS
TASA

El remitente de este telegrama, con una "X" en la clase de servicio que desea de lo contrario, se usará el servicio ordinario y se aplicará la tarifa correspondiente.

Urgente ☒ Ordinario ☐ Carta-Telegrama ☐

Enviados con el sistema Mackay Radio para los puntos en los Estados Unidos más allá de nuestras oficinas

122-60-111

25 de Abril de 1968

ISRAELI
NEW YORK

YA/23 FAMILIA DE MELIA INFORMADA QUIENES PRESICIAN DECESADO DEBA SER
REPARADO GUAYAQUIL PUNTO MARECUADOR AGOTANDO RECURSOS FAMILIA DE MELIA
SIDE CUENTA DIFICIL SITUACION FAVOR INFORMAR MARECUADOR

Maritime Enterprise
Rony J. Almeida,
Presidente

Sucre 106 y Malecon 2do. Piso,
DOMICILIO CC. NEB. Cdad.

FIRMA DEL REMITENTE

Sírvanse transmitir este telegrama, de conformidad con las condiciones al dorso, a las cuales consiento someterme.

EXHIBIT 3

849

ALL AMERICA CABLES AND RADIO
American Cable and Radio System

"VIA ALL AMERICA" "VIA COMMERCIAL" "VIA GLOBE" "VIA MACKAY RADIO"

OFFICES IN ECUADOR

Guayaquil: General Elizalde Street 107-11
Tels. 14117 & 114118
Quito: Venezuela Street 961-969
Tels. 11641 & 11681
Salinas: 110 First Avenue West

No.
MM.
TIME
WORDS
RATE

The sender must indicate (with a "X") the class of services that he desires, if not regular service will be used and the corresponding rate will be applicable

-Urgent X - Ordinary - Letter - Telegram-

Connected with Western Union for points in the United States beyond our offices.

122-68-RAD
Guayaquil April 25th, 1968
ISRASHIPS
NEWYORK

Y4/23 FAMILY OF MEJIA INFORMED WHO URGE DECEASED MUST BE
REPATRIATED TO GUAYAQUIL STOP MARECUADOR MEJIA FAMILY
RESOURCES EXHAUSTED REALIZE THAT THIS IS A DIFFICULT SITUATION
PLEASE INFORM

MARECUADOR

Maritime Enterprise
Rony J. Almeida
President

Sucre 106 & Malecon 2nd, Floor

Signature of the Sender _____ Address _____ Of. No. 8, Cdad.
Please transmit this telegram in conformity with the conditions on the other side to which I consent.

Ex 11.21 + 3

85a

AMERICAN-ISRAELI SHIPPING CO., INC.
42 BROADWAY NEW YORK, N.Y. 10004

Our Claim No: PA/1704

Date: November 25, 1968

Your Reference: _____

Please find attached our check in the amount of \$ 2400.00
in full and final settlement of your claims as hereunder:

MEB

Vessel/Voy. B/L L.P. D.P. Commodity Type

101 "DARLIN" Voy. P-6 - Injury and Death of crewmember Jacinto Vicente Mejia-Renteria
on April 23, 1968

Claimant	Consignee
Mrs. Betty Cusme de Mejia (widow of Jacinto Vicente Mejia-Renteria) c/o Mr. Alfredo Czarninski Consul of Israel P. O. Box 534 Guayaquil, Ecuador	<i>Betty Cusme de Mejia</i>

PLEASE SIGN AND RETURN THE ATTACHED COPIES ACKNOWLEDGING RECEIPT OF THIS CHECK.

MEDITERRANEAN AGENCIES, INC.

42 BROADWAY NEW YORK, N.Y. 10004

No 47861

1-108
210

MARINE MIDLAND GRACE TRUST COMPANY OF NEW YORK
120 BROADWAY NEW YORK, N.Y.

PAY TO THE ORDER OF	DATE	CHECK NUMBER	PAY	AMOUNT OF CHECK
MRS BETTY CUSME DE MEJIA - WIDOW OF JACINTO VICENTE MEJIA RENTERIA	NOV2968	47,861	\$2400.00	\$2400.00

⑆0210⑉0108⑆ 001⑉72203⑉4⑆ ⑈0000240000⑈

Betty Cusme de Mejia

DEC 23 1968

DEC 23 1968

RECEIVED
MARINE MIDLAND GRACE TRUST COMPANY
NEW YORK, N.Y.
DEC 23 1968

Exhibit 4



NATIONAL INSURANCE INSTITUTE .

Head Office

13, Weizmann Avenue, Jerusalem 91900, Israel

המוסד לביטוח לאומי

המשרד הראשי

שדרות וייצמן 13, ירושלים 91900

20 November 1973

Mr. Thomas M. Breen
160 Broadway
New York N.Y. 10038

Dear Sir,

Re : Jacinto Vicente Mejia Senteria
(deceased)

We wish to acknowledge receipt of your letter
of 28.9.1973.

In accordance with the National Insurance Law,
a person who is not an Israeli resident and died from an
accident abroad, is not insured in the Employment Injury
Insurance Branch and his survivors are not entitled to
any benefits from the National Insurance Institute.

Yours sincerely,

A. Mena

A. Mena
Assistant Director
Insurance Department

Exhibit 5

879



NATIONAL INSURANCE INSTITUTE
Head Office
13, Weizmann Avenue, Jerusalem 91900, Israel

המוסד לביטוח לאומי
המשרד הראשי
שדרות וייצמן 13, ירושלים 91900

16 October 1973

Mr. Thomas M. Breen
Fractor in Admiralty
Counselor at Law
160 Broadway
New York N.Y. 10038
U.S.A.

~~2153~~
2153

Dear Sir,

Re: Jacinto Vicente Mejia Renteria, Deceased

I acknowledge receipt of your letter of July 30th 1973 on the above mentioned subject which has been forwarded to me by our Ministry of Labour.

In reply to your question I regret to state that foreign seamen employed on Israeli vessels are not insured under our National Insurance Law.

You did not mention the circumstances of the death of the deceased and whether he died as a consequence of a work accident.

In any case, Survivors Insurance applies under Section B. of our Law, paragraph 7 only to residents of Israel, whereas section C, paragraph 32 dealing with work accidents abroad restricts employment injury insurance to workers abroad who are themselves and their employers are residents of Israel and made their work contract in Israel.

I am afraid that none of these conditions applies to the above mentioned deceased and that his survivors have, therefore, no legal claim to benefits under our Israeli National Insurance Law.

It might, however, be that his former employer "Zim Corporation" insured her foreign sailors serving on her ships with a private insurance company as is usual and that the survivors have a claim to benefits under this insurance.

I would, therefore, suggest that you approach the Zim Corporation directly on this matter.

Faithfully yours,

M. Lachman
Dr. Ch. Lachman
Assistant Director General

Exhibit 5
889



NATIONAL INSURANCE INSTITUTE

Head Office

13, Weizmann Avenue, Jerusalem 91900, Israel

המוסד לביטוח לאומי

המשרד הראשי

שדרות ויצמן 13, ירושלים 91900

7 September 1973

Mr. Thomas M. Breen
Counselor at Law
160 Broadway
New York N.Y. 10038

Dear Sir,

Re : Jacinto Vicente Mejia Renteria
(deceased)

In reply to your letter dated 30.7.73 my reply is as follows :

The National Insurance Law in Israel distinguishes between an Israeli resident and a non-Israeli resident.

An Israeli resident is insured in survivors insurance and his widow and children are entitled to a pension as detailed in your above mentioned letter. On the other hand a person who is not an Israeli resident is not insured and therefore, there is no entitlement to the survivors pension.

I understand from your letter that the deceased died from a natural disease and therefore Chapter 2 Section subdivision paragraph (a) does not apply to him. But even if he died from an accident at work, the condition for insurance of a sea-man in employment injury insurance is - to be an Israeli resident.

I regret therefore that the widow and the rest of the family are not entitled to a pension in accordance with the National Insurance Law in Israel, as the above mentioned was not insured in the National Insurance in Israel.

Yours sincerely,

M. Cohen
Director
Insurance Department

Exh. 6175
899

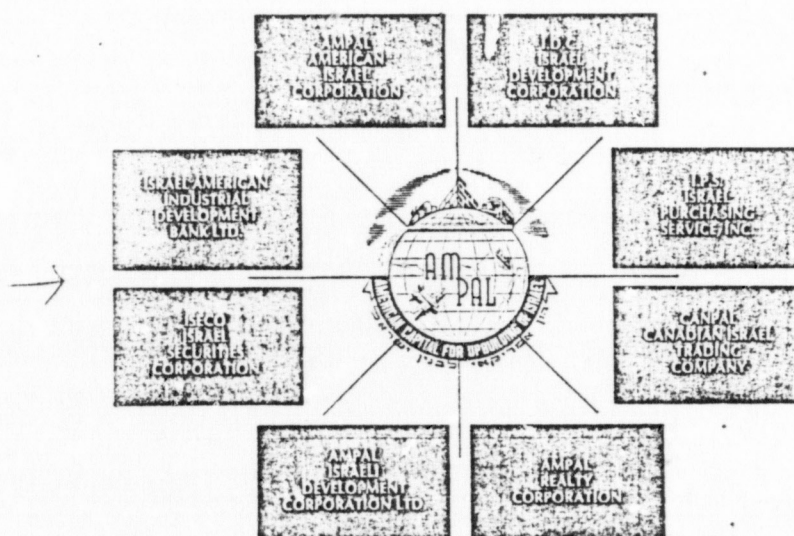
1942
1971
THIRTY YEARS
AMPAL

AMPAL

American Israel Corporation • 30th Annual Report

EX-6-78

1971
THIRTY YEARS
AMPAL



AMPAL GROUP FINANCIAL HIGHLIGHTS 1942-1971

	First 10 Yr. Period 1942-1951	Second 10 Yr. Period 1952-1961	Third 10 Yr. Period 1962-1971
Total Gross Assets—End of Period	\$25,604,454	\$ 71,087,464	\$126,344,000
Capital and Surplus—End of Period	4,268,529	19,744,436	28,378,244
Debentures Outstanding—End of Period	10,489,190	19,503,513	36,571,229
Credits Granted and Investments Made— During the Period	46,800,370	356,225,678	311,594,506
Loans Receivable and Investments—End of Period	15,559,656	61,849,218	113,311,430
Loans Payable—End of Period	4,503,910	13,697,445	57,439,628
Income from Interest (Net) Dividends and Commission— During the Period	2,675,142	13,609,425	28,254,797
Dividends Paid—During the Period	725,233	5,520,873	14,562,617
Imports from Israel—During the Period	2,494,991	7,123,439	4,395,455
Exports to Israel—During the Period	52,591,596	46,612,250	19,395,031

Exhibit 6

PRESIDENT'S REPORT

Industrial Development Bank of Israel—The assets of this Bank rose from IL 210,000,000 in 1970 to IL 1,589,000,000 as at December 31st, 1971—a growth of 31%.

Loans totaling IL 458 million were approved in 1971 as compared with IL 202 million in 1970—a sharp increase of 128%. The balance of loans outstanding rose to IL 1,228,612,051.

The Bank had a net profit after taxes of IL 35 million as compared with IL 28 million in the preceding year.

Industrial Services Ltd.—A turnover of IL 150 million was reported for the year 1971 by this factoring company—a joint venture of the Bank fuer Gemeinwirtschaft and Koor Industries Ltd.

Over 250 industrial enterprises in Israel—particularly in the electronic, chemical and metal fields—benefited from I.S.L.'s financing in the year under review.

Investment Fund of Hevrat Ovdim—The assets of the Fund for its fiscal 1970/71 year rose to IL 184 million as compared with IL 148 million in the preceding year. Net income after provision for taxes amounted to IL 2.4 million as against IL 1.7 million in 1969/70.

Koor Industries Ltd.—At a festive dinner tendered in Tel Aviv by Koor Industries to the visiting Ampal 30th Anniversary delegation, General Meir Amit, Director-General of Koor Industries reported that 1971 marked the year in which Koor's turnover transcended the billion figure in Israel pounds.

Sales from 55 Koor enterprises rose to IL 1.1 billion as compared with IL 800 million in 1970, a growth of 37%. Exports increased from \$30 million in the preceding year to \$42 million. The ratio of exports to total sales thus rose from 16 to 19%. 22% of Israel's total industrial exports, exclusive of diamonds, are accounted for by the Koor combine.

Gross profits for 1971 amounted to IL 40 million. Over 16,000 workers were employed by Koor in the year under review as compared with 14,000 workers in 1970.

Over IL 100 million were invested in 1971 in the expansion and modernizing of existing plants and the establishment of new ones.

Lapidoth-Israel Oil Prospectors Corp., Ltd. and Naphta-Israel Petroleum Corp., Ltd.—Production in the Lapidoth Heletz oil fields has decreased to an average of 1,250 barrels a day, which amounts to about 65,000 tons per year.

Natural gas production in the Naphta Zohar fields near Arad account for 13 million cubic feet a day—the equivalent of 120,000 tons of liquid petroleum a year.

Profits are dropping accordingly despite Government approved petroleum price increases.

"Magal" Israel Gas Enterprises Ltd.—During the past year, Magal transmitted in its pipeline network approximately 136,000,000 cubic meters of gas and, for the first time, crude oil for an amount of 17,000 tons.

In the ten years of its existence, 760,000 million cubic meters of gas have been supplied through Magal's pipelines—equating in calorific value 700,000 tons of fuel oil.

Income from gas transmission during the past year reached a total of IL 1,620,820. A 12% dividend was paid to shareholders and the Company met all its debt obligations promptly.

Makhteshim Chemical Works, Ltd.—This insecticides plant in Beersheva, in which Israel Development Corporation invested over \$1,000,000 in the course of 1971, reported sales revenue of IL 55 million in the year under review—of which \$9 million were earmarked for export to five continents.

Mekorot Water Co. Ltd.—Total revenues of Mekorot and its subsidiaries during the year under review

amounted to approximately IL 300 million. Over 3,700 persons were employed of which 2,800 were employed by the parent company.

During 1970/71, 980 million cubic metres of water were supplied by Mekorot. This figure included 180 million cubic metres supplied for seasonal storage while 610 million cubic metres were channeled to agricultural consumption and 170 million to domestic and industrial consumption.

Over IL 62 million were invested in water development projects during the past year—the financing of which was made available by the government, water consumers and Mekorot's own funds.

At a dinner tendered the visiting Ampal 30th anniversary delegation, by Mekorot Water Co., the Minister of Agriculture, Mr. Haim Gvati, outlined a comprehensive plan for the further development of the country's water resources.

Middle East Tube Co. Ltd.—Combined sales of the two Middle East Tube plants in Acre and Tsfirin totaled IL 72 million in 1971, of which \$3.5 million were exports. IL 10 million will be invested in a new production line of 20 inch diameter pipes which will be commissioned at the Tsfirin plant in 1972. The new line will enlarge productive capacity, diversify output and reduce production costs.

Nesher Cement Works—Cement production of the Haifa and Ramlah Nesher plants remained at the approximate 1,350,000 ton level of 1970 despite a rise in consumption for the year under review to 1,600,000 tons—an increase of 17.4% over that of the preceding year. The deficiency was made up by the import of 283,000 tons of cement. The marked increase in the demand for cement was a direct result of the accelerated tempo of building to meet the housing needs of heightened immigration.

The Ampal 30th Anniversary delegation visiting the Haifa plant was presented with a detailed plan for the expansion of the industry. Included in the plan is the activation in 1973 of the recently acquired Shimshon Cement Works Ltd. at Hartuv, which alone is expected to produce an additional 600,000 tons.

Sefen Ltd.—During fiscal 1970/71 sales of Sefen's laminated plastics and its other fiberboard products both at home and abroad amounted to IL 26,609,986 as compared with approximately IL 23,000,000 in the preceding year. Gross profits reached IL 9,096,958 as against IL 7,035,416 in 1969/70. Net profits after provision for taxes amounted to IL 4,129,313 compared with IL 3,427,662 one year ago.

At a festive luncheon in the Jordan Valley tendered by the Board of Directors of Sefen to the visiting Ampal 30th Anniversary delegation a detailed program for the expansion of Sefen into a series of new and closely related fields was outlined by the management of Sefen.

Tadiran, Israel Electronics Industries Ltd.—Total sales of this partnership of General Telephone and Electronics International Inc. and Koor Industries Ltd. for 1970/1971 amounted to IL 148 million of which approximately IL 30 million were exported.

Operations in 1971/72 are proceeding at an annual rate of IL 200 million with an export forecast of IL 50 million, not including the nominal increase due to the recent devaluation of the Israel pound.

Tadiran currently employs approximately 3,000 persons.

The Israel Corporation—At the end of 1971, three of the projected investment plans of the Israel Corporation

Exhibit 6

Credits
Granted and
Investments
Made for the
Development
of Israel.
Ampal-American
Israel
Corporation,
Israel
Development
Corporation
and Affiliates

February 6, 1942 -
January 31, 1972

	1942-1951	1952-1961	1962-1971	Total	Balance 1/31/72
1. AgriDev-Agricultural Development Co. (Int.) Ltd.	—	—	\$ 384,500.00	\$ 384,500.00	\$ 384,500.00
2. Alliance Tire & Rubber Company	—	—	13.43	100,813.43	34,042.99
3. American Committee for Weizmann Inst. of Science	100,000.00	75,000.00	—	175,000.00	—
4. American Electrochemical Industries Inc.	100,000.00	—	182,000.00	182,000.00	83,200.00
5. American Friends of the Hebrew University	—	8,750.00	—	8,750.00	—
6. American Israel Shipping Co.—Israel Amer. Line Ltd.	285,000.00	105,000.00	—	390,000.00	—
7. Amisrakas-American Israel Gas Corp., Ltd.	—	—	335,000.00	335,000.00	—
8. Ampal-Israeli Development Corp. Ltd.	—	—	333,433.32	333,433.32	333,433.32
9. Ampal Realty Corporation	95,000.00	—	—	95,000.00	10,000.00
10. Azorim Investment Development & Construction Co. Ltd.	—	—	137,333.33	137,333.33	—
11. Bank Hapoalim B.M.	4,722,541.37	20,881,261.64	3,501,763.33	29,105,566.34	57,893.33
12. Canpal Canadian Israel Trading Co. Ltd.	5,225.00	—	—	5,225.00	5,225.00
13. Cargo Ships "El Yam" Ltd.	—	57,500.00	—	57,500.00	—
14. Chevrat Olav La-Oleth, Ltd.	—	—	1,274,512.50	1,274,512.50	78,187.50
15. Citadel Life Insurance Co.	—	—	26,000.00	26,000.00	26,000.00
16. Dead Sea Works Ltd.	—	520,000.00	—	520,000.00	300,000.00
17. "Delek" The Israel Fuel Corporation Ltd.	—	753,207.20	1,485,060.69	2,238,267.89	1,106,919.81
18. Etz Vanir Ltd.	—	500,104.50	692,999.60	1,193,104.10	492,103.90
19. Fertilizers & Chemicals Ltd.	—	275,000.00	—	275,000.00	—
20. Fiducia Inc.	—	—	607,656.30	607,656.30	27,056.20
21. Government of Israel and Supply Mission	20,257,639.08	113,435,550.37	28,733,573.26	162,426,762.71	13,237,382.33
22. Hamashbir Hamerkazi Ltd.	—	—	1,945,637.33	1,945,637.33	—
23. Hamashbir Leizarchan Ltd.	—	—	1,687,607.62	1,687,607.62	—
24. Hamat Ltd.	—	—	190,000.00	190,000.00	190,000.00
25. Hamgaper Ltd.	—	—	95,000.00	95,000.00	95,000.00
26. Housing Mortgage Bank Ltd.	—	—	100,000.00	100,000.00	—
27. Industrial Development Bank of Israel, Ltd.	—	—	7,671,887.33	7,671,887.33	6,869,382.33
28. International Credit Bank Geneva	—	—	140,275.00	140,275.00	—
29. Investment Fund of Hevrat Ovdim, Ltd.	—	—	1,127,262.50	1,127,262.50	208,540.75
30. Israel American Industrial Development Bank Ltd.	—	5,409,888.90	11,678,098.00	17,087,986.90	6,404,022.40
31. Israel Ceramic Works "Harsa" Ltd.	—	—	161,500.00	161,500.00	161,500.00
32. Israel Development Corporation	—	1,333,880.00	161,032.50	1,494,912.50	1,092,760.00
33. Israel Economic Development Corp. (Chail) Ltd.	—	—	1,826,637.50	1,826,637.50	522,950.00
34. Israel Foreign Trade Credit Corp.	—	224,375.00	—	224,375.00	—
35. Israel Hotels, Inc.	200,000.00	—	—	200,000.00	—
36. Israel Portland Cement Works "Nesher" Ltd.	—	—	1,111,111.00	1,111,111.00	589,329.00
37. Israel Purchasing Service, Inc.	1,212,000.00	—	—	1,212,000.00	77,330.88
38. Israel Sugar Works Co., Ltd.	—	395,832.70	—	395,832.70	395,832.70
39. Jewish Agency—American Section, Inc.	—	—	—	—	—
40. Jewish Agency for Israel	4,921,060.00	111,219,686.19	85,937,358.52	202,078,104.71	7,139,767.64
41. J.N.F. Keren Hakavemeth Le-Israel	2,552,900.00	1,612,500.00	—	4,165,400.00	—
42. Koor Industries and Crafts Co. Ltd.	—	6,255,014.00	3,163,901.00	9,418,915.00	4,000,149.84
43. Lapidoth Israel Oil Prospectors Corp. Ltd.	—	—	—	—	—
44. American Israel Petroleum Corp.	—	3,245,045.80	325,914.55	3,570,960.35	59.53
45. Magal Israel Gas Enterprises Ltd.	—	—	183,809.85	183,809.85	99,901.90
46. Makhteshim Chemical Works Ltd.	—	—	1,579,841.80	1,579,841.80	1,332,343.80
47. Mekoroth Naphi Ltd.	—	1,220,487.50	—	1,220,487.50	—
48. Mekoroth Water Co., Ltd.	—	—	2,654,750.00	2,654,750.00	1,417,543.75
49. Mezonot-Israel American Construction Co. Ltd.	—	2,082,533.33	904,630.60	2,987,163.93	187,720.83
50. Merikavim Metal Works, Ltd.	—	—	95,000.00	95,000.00	95,000.00
51. Mifaleh Batim Tromiyim (Mahat) Inc.	—	—	1,360,309.76	1,360,309.76	354,307.98
52. Miscellaneous	311,097.53	224,350.00	536,474.76	1,071,922.29	2,018,251.27
53. Municipal Corporation of Tel Aviv	—	4,321,081.13	9,382,340.29	13,703,421.62	278.14
54. Naphtha Israel Petroleum Co., Ltd.	—	651,768.56	—	651,768.56	—
55. National Committee for Labor Israel, Inc.	11,174,094.90	30,533,804.44	9,642,378.13	51,350,268.47	2,168,262.97
56. Nesher Cement (Holding) Co., Ltd.	—	—	1,353,333.32	1,353,333.32	1,353,333.32
57. Pax Ltd.	—	—	1,825,098.67	1,825,098.67	645,706.24
58. Petroleum Services Ltd.	—	—	484,916.66	484,916.66	—
59. Pioneer Women's Organization	429,000.00	593,197.31	18,100.00	1,040,297.31	—
60. Rassco Israel Corporation	—	—	597,500.00	597,500.00	—
61. Reynolds Construction Company	—	—	9,043,875.00	9,043,875.00	937,825.00
62. Selen Ltd.—Israel Fibreboard Prods. Corp.	200,000.00	1,297,200.00	376,926.33	1,874,126.33	549,822.71
63. Shemen-Israel Oil Industry Ltd.	—	—	520,943.70	520,943.70	—
64. Solconor Purchasing & Marketing Co. Ltd.	—	10,643.41	6,628,231.24	6,638,874.65	570,000.00
65. Solel Bonehs Overseas and Harbor Works Co. Ltd.	—	—	2,302,914.34	2,302,914.34	1,693,837.53
66. Soltrade Ltd.	—	—	736,250.00	736,250.00	468,725.00
67. Sonol Ltd.	—	—	1,013,941.40	1,013,941.40	358,723.76
68. State of Israel Bonds	85,000.00	5,576,348.23	4,857,419.97	10,518,768.20	6,603.66
69. Suppliers and Agents Ltd.	—	—	1,538,000.00	1,538,000.00	1,322,000.00
70. Treat Shimurei Dager Hakineresh	—	55,500.00	—	55,500.00	—
71. Tri Continental and Eilat Pipelines Ltd.	—	1,050,000.00	600,148.16	1,650,148.16	—
72. Vulcan Foundries Ltd.	—	—	531,562.50	531,562.50	531,562.50
73. Water Resources Development (Int.) Ltd.—Vered	—	—	1,191,000.00	1,191,000.00	841,375.00
74. Yakhin Aguda	—	—	1,497,000.00	1,497,000.00	1,259,000.00
75. Yakhin Chakal Ltd.	—	—	1,654,981.34	1,654,981.34	314,750.00
76. Yakhin Mataim Ltd.	—	523,818.60	—	523,818.60	523,818.60
77. Yonah Fishing & Industries Ltd.	—	—	743,184.99	743,184.99	—
78. Zim Israel Navigation Co. Ltd.— Israel Maritime Co. Ltd.	—	10,255,787.03	705.00	10,336,492.03	1,344,705.00
79. Solel Boneh's Building and Public Works Co. Ltd.	—	—	500.00	5,262,500.00	—
80. Industrial Services Co., Ltd.	—	—	875.00	3,106,875.00	2,826,875.00
81. The Israel Corporation Ltd.	—	—	6.67	300,166.67	300,166.67
82. Tadiran Israel Electronics Industries, Ltd.	—	—	125.00	3,124,125.00	2,924,125.00
83. Middle East Tube Co. Ltd.	—	—	951,487.24	951,487.24	929,805.24
	\$46,651,357.88	\$324,776,118.04	\$231,898,486.33	\$603,275,962.25	\$71,465,018.10

Exhibit 6

had materialized. The Israel Corporation now holds 50% of the shares of Zim Israel Navigation Co. Ltd., 26% of the equity of the Haifa Refineries Ltd. and 50% of the Jerusalem Plaza luxury apartment hotel under construction. In addition to the \$31 million invested in the above, the company is actively negotiating a further investment in a petro-chemical enterprise and is considering participation in several other ventures in the process of formation.

Yakhin Hakal-Yakhin Malaim Ltd.—Over 10 million crates of citrus fruit were exported by Yakhin Hakal during the 1970/71 citrus season. 100,000 tons of culls were channeled to local consumption.

Production from its three canning plants amounted to IL 42 million of which IL 33 million were exported.

68 thousand dunam of citrus plantations were cultivated by Yakhin Hakal, constituting 25% of the country's groves—making it the largest single company in this field.

Ampal's 30th Anniversary delegation enjoyed an informative visit as the guests of the Yakhin management in their jointly owned Tel-Mond grove. Touring during the heart of the harvesting season, Ampal directors received first hand knowledge of the picking and packing of the crop.

Zim—Israel Navigation Company Ltd.—Zim's latest published annual report underscores a net annual profit of IL 23,753,000. This amounted to 5.2% of the company's annual revenues of IL 571,727,500. The profit was almost double that of the previous year's IL 12,592,000 when turnover totaled IL 485,367,000.

During the year under review, Zim carried 13 million tons of freight as against 8.5 million in the preceding year. The company operated a total of 137 ships, of which 60 were Zim owned; 14 owned by other Israeli companies and operated by Zim on long term charters and 63 foreign flag, chartered ships.

Nineteen new ships are on order, at an aggregate investment of some \$250 million. The total displacement of these vessels will approximate 900,000 tons. Ten of the nineteen ships will be delivered within the coming twelve month period.

At a dinner tendered by Zim in Haifa to the visiting Ampal 30th Anniversary delegation, Mr. Shimon Peres, Minister of Transport, outlined the proposed expansion of the Israeli maritime industry for the coming five years.

ASSOCIATES OF AMPAL

Major Israeli economic institutions with which the AMPAL Group cooperates closely in its far-flung operations continued to show steady growth.

Bank Hapoalim, B.M.—On the occasion of its 50th Anniversary, the assets of Bank Hapoalim rose by an impressive 63% to reach a new peak of IL 6.7 billion—against IL 4.1 billion in 1970.

This marked increase placed Bank Hapoalim in second place among Israel's banks.

Loans outstanding were IL 4.25 billion as compared with IL 2.84 billion in 1970—a growth of 55%. Deposits rose by 65%—from IL 3.7 billion to IL 6.1 billion, during the year under review. Foreign currency deposits jumped 77%.

Own capital rose from IL 76 million to IL 113 million—a growth of 50%.

Net after tax profits rose by 54%—from IL 11.1 million to IL 17.4 million. A 20% stock dividend was declared in addition to a cash dividend of 12.5% to 15.5%, in accordance with class of shares.

Consumers Cooperatives—A turnover of approximately IL 270 million was reported in the 210 supermarkets of the society in 1971. In the Tel Aviv society sales of IL 94.5 million was registered as against IL 84 million in 1970—an increase of 12.5%.

Hamashbir Hamerkazi Ltd.—Overall revenue of IL 612 million was reached by this large wholesale cooperative in 1971. Together with subsidiaries total sales were IL 722 million.

Gross profits of Hamashi, rose to IL 36.4 million as against IL 29.2 million in the preceding year—a growth of approximately 20%. Net profits were more than IL 2 million.

Hamashbir Letzarchan Ltd.—Increased sales in the network of department stores of this chain resulted in a rise in 1971 of 38%—from IL 48.5 million to IL 66.7 million.

Current plans for opening new stores in Eilat, Rehovot, Haifa and Nathanya and expanding and modernizing existing outlets will increase total space from 26,000 square meters to 36,000 square meters.

Tnuva Ltd.—During the past year the scope of production of wholly owned industry of Israel's largest cooperative distributor of agricultural products, rose by 41% to IL 240 million.

Total turnover of Tnuva grew by 10% to reach a figure of IL 880 million. Tnuva's latest total national membership count is 49,000 farm units (including 1,000 Arab farmers from 27 villages) and it now handles 70% of the total output of fruit, vegetables, dairy and poultry production.

Solel Boneh—During 1971, Israel's largest contractor executed works valued at IL 1.23 billion—an increase of IL 42 million over that of the previous year. Profits during 1971 were approximately IL 15 million.

The relative proportion of participation in mammoth engineering projects is increasing.

Solel Boneh's building department implemented work for IL 575 million against IL 435 million in 1970. Solel Boneh's Overseas and Harbor Works Co. implemented contracts in a number of countries for IL 223 million during 1971. The road building department increased its scope of operations to IL 150 million. Turnover of its wholly owned subsidiary, Herouth Ltd., (engaged in sanitary installation) amounted to IL 109 million.

At a dinner tendered the visiting Ampal 30th Anniversary delegation by Solel Boneh, Mr. Asher Yadin, Secretary-General of Hevrat Ovdim stressed the vital contribution made by Solel Boneh in absorbing the new flow of immigration into the country.

SUMMARY

Israel's battle against inflation and a negative balance of trade, coupled with a rising tide of immigration and continuing expenditure for defense, calls for increased influx of capital for the development of export oriented industries.

The AMPAL Group, in its thirtieth year, can clearly perform an invaluable service to Israel and itself by re-dedicating the activities of its directors, shareholders and staff to meet this urgent need.

Respectfully submitted

A. Dickstein

ABRAHAM DICKENSTEIN
President

Exhibit 6

Ampal-American Israel Corporation DIRECTORS AND OFFICERS

Hon. Chairman, Bd. of Directors **RUDOLF G. SONNEBORN**
New York, President, L. Sonneborn Sons Inc.

Chairman, Board of Directors **RALPH WECHSLER***
Essex Fells, N. J., Chairman Board,
Nopco Chemical Co. (Retired)

Chairman, Executive Committee **VICTOR PACKMAN***
St. Louis, Missouri, Attorney

President and Director **ABRAHAM DICKENSTEIN***
New York, N. Y.

Vice-Chairman, Bd. of Directors **HYMEN GOLDMAN**
Washington, D. C., President,
Standard Clear Co.

Vice-Chairman, Bd. of Directors **DR. GEORGE WISE**
Tel Aviv, Israel, President,
Tel Aviv University

Exec. Vice-Pres. and Director **RALPH COHEN***
Teaneck, New Jersey

Vice-President and Director **JACOB KATZMAN***
New York, Secretary, Farband Labor
Zionist Center

Vice-President and Director **JOSEPH N. MITCHELL**
Los Angeles, California
President, Beneficial Standard Life
Insurance Co.

Vice-President and Director **MORRIS LIEBERMAN**
Detroit, Michigan, Attorney

Treasurer and Director **LOUIS LUDWIG***
New York, N. Y., President,
Eagle Electric Manufacturing Co., Inc.

Director **AARON BECKER**
Tel Aviv, Israel

Director **JACOB FELDMAN**
Dallas, Texas, President,
Commercial Metals Co.

Director **JOEL KAUFMAN**
Washington, D. C., Treasurer,
Kay Associates, Inc.

Director **JAC. KAY**
Silver Springs, Maryland

Director **JACOB LEVINSON**
Chairman of the Board of Management
Bank Hapoalim, B.M.

Director **IRVING PADWA***
Los Angeles, California

Director **DR. MELVIN M. SCHWARTZ**
Richmond Hts., Missouri

Director **ASHER YADLIN**
Tel Aviv, Israel, Secretary,
Hevrat Ovdim, B.M.

Director **ABRAHAM ZABARSKY**
Tel Aviv, Israel, Chairman, Bd. of Directors
Bank Hapoalim, B.M.

Assistant Treasurer **HY AMITAY**

Assistant Secretary **TINA R. ELLIS**

Comptroller **MAX ZUCKERMAN**

Assistant Comptroller **PAULINE KRAUS**

Israel Development Corporation DIRECTORS AND OFFICERS

Chairman, Board of Directors **VICTOR CARTER**
Los Angeles, Calif., Director
United California Bank

Vice-Chairman, Bd. of Directors **ISAAC H. TAYLOR**
Ellicott City, Md., President,
Taylor Manor Hospital

Chairman, Executive Committee **RALPH WECHSLER***
Essex Fells, N. J., Chrm. Board,
Nopco Chemical Co. (Retired)

President and Director **ABRAHAM DICKENSTEIN***
New York, N. Y.

Executive Vice-Pres. and Director **RALPH COHEN***
Teaneck, N. J.

Vice-President and Director **SIDNEY SHEVITZ** (deceased)
Detroit, Mich., Attorney

Director **PAUL R. ANGEL***
New York, N. Y., Exporter

Director **MELVIN DUBIN**
New York, N. Y., President, Slant/Fin Corp.

Director **RAYMOND EPSTEIN**
Chicago, Ill., Chairman of the Board,
A. Epstein and Sons, Inc.,
Engineers and Architects

Director **AARON GOLDMAN**
Washington, D. C., President,
The Macke Co.

Director **MOE MARGOLIS***
New York, N. Y., President,
Elmer Dry Goods

Director **DR. LEON REIBMAN**
Phila., Pa., President, American Electronic
Laboratory Inc.

Director **EDWARD RIVLIN**
New York, N. Y., President
Arista Oil Products Co.

Director **ELI SPIELBERG**
St. Louis, Mo., President
Spielberg Manufacturing Co.

Director **MORRIS WALTER** (deceased)
North Bergen, N. J.

Director **IRVING WARSHAWSKY**
New York, N. Y., President,
I. W. Arms Company

Assistant Treasurer **HY AMITAY**

Assistant Secretary **TINA R. ELLIS**

Comptroller **MAX ZUCKERMAN**

Assistant Comptroller **PAULINE KRAUS**

*Member Executive Committee

National Board—Ampal—American Israel Corporation

HOWARD ALTER New York, N. Y.

ALBERT ADELMAN Milwaukee, Wisconsin

LEON H. BACHMAN Fort Worth, Texas

GEORGE DELSTEIN San Francisco, California

IRVING EISNER Tel Aviv, Israel

SOL JACOB EPSTEIN Chicago, Illinois

SOL ESFELD Seattle, Washington

THEODORE FELNER New York, New York

BENJAMIN FREE Milwaukee, Wisconsin

LEO GROSS Minneapolis, Minnesota

BENJAMIN HARRIS Chicago, Illinois

ISIDORE LIPSHUTZ New York, N. Y.

DAVID MAGER New York, N. Y.

PHILIP M. MEYERS Cincinnati, Ohio

HARRY M. POPKIN Los Angeles, California

CHARLES D. ROSENBLUM Pittsburgh, Pennsylvania

MAX ROTHMAN New York, New York

MAURICE SANDITEN Tulsa, Oklahoma

SOL SAVITZ Philadelphia, Pennsylvania

MRS. EMMA SCHAVER Detroit, Michigan

JOSEPH D. SHANE Beverly Hills, California

BENJAMIN SWIG San Francisco, California

WILLIAM SYLK Philadelphia, Pennsylvania

LOUIS WARSHAW Los Angeles, California

ABE WEINGARTEN Houston, Texas

SOL WISCHNACK Mexico, D. F.

Exhibit 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

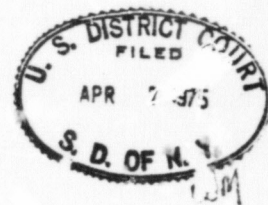
----- -X
: THOMAS I. FITZGERALD, Public Administrator
of the County of New York, State of New : 71 Civil 2992
York, as personal representative of the : (ELP)
estate of JACINTO VICENTE MEJIA RENTERIA, :

Plaintiff, :

-against- :

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI :
NAVIGATION CO., ZIM ISRAEL NAVIGATION :
CO. LTD., ZIM LINES and AMERICAN-ISRAELI :
SHIPPING CO., INC., :

Defendants. :
----- -X



REPLY MEMORANDUM
OF
ZIM ISRAEL NAVIGATION CO., INC.
(ZIM ISRAEL)

Zim Israel relies upon the facts and law of its moving papers herein. In response to Zim Israel's motion for summary judgment and dismissal on the ground of forum non conveniens and the motion of co-defendant Zim-American Israeli Shipping Co., Inc. (ZAISCO), plaintiff has served two cross referenced, incomprehensible answering affidavits and memoranda containing a plethora of statements which are innocent of any basis in fact or law. Zim Israel will not overburden this court with an attempt to respond to every specious allegation or misconstruction of law but will, in its reply to the more salient points.

RESPONDING TO PLAINTIFF'S POINT I

Plaintiff in his complaint alleged that Zim Israel is owned and controlled by Americans with the Israeli flag upon its vessel one of mere convenience. It appears from the answering papers of plaintiff's attorney that he has retreated to the

position that Zim Israel is only "substantially American owned". This new position is tantamount to an admission that he is unable to prove the allegations of ownership and control as set forth in the complaint. As a matter of law the phrase "substantial American ownership" is without legal significance with respect to the issues herein litigated.

To date the plaintiff's attorney has done the following to substantiate his allegations. Plaintiff served Zim Israel with interrogatories demanding the names of its shareholders. Said defendant answered that it was owned 50% by the government of Israel and 50% by the Israel Corporation. Plaintiff's attorney then demanded the names of the shareholders of the Israel Corporation. Since the Israel Corporation is a separate and distinct entity Zim Israel was unable to answer. The sufficiency of Zim Israel's answer that it had no knowledge was upheld by Magistrate Sol Schreiber U.S.D.C. after hearing argument from both sides.

Plaintiff's attorney then claims to have deposed the Israel Corporation. This is completely without truth. Plaintiff's attorney noticed the deposition of a Mr. Harvey Kruger. (A copy of the notice is attached hereto as Zim Israel's EXHIBIT A.) The notice was improper under the Federal Rules of Civil Procedure because Mr. Kruger is not a party to this litigation. Mr. Kruger was noticed in his individual capacity. He appeared for the deposition with his personal attorneys, Messrs. Cravath Swaine & Moore. Under oath and in response to questions of plaintiff's attorney, Mr. Kruger estimated that the current American stockholdings in the Israel Corporation amount to no more than 15% (at p. 21) and that of the Israel Corporation's 15 current directors there were only 2 Americans while there were 8

Israelis (at p. 4). Plaintiff's attorney rejects this testimony alleging that American ownership of the Israel Corporation is between 35% and 50%. Plaintiff's attorney states absolutely no facts to support his allegation (see plaintiff's memorandum at page 18).

Plaintiff's attorney adjourned the deposition of Mr. Kruger because Mr. Kruger's counsel objected to the line of questioning. Plaintiff's attorney has never sought a ruling on the objections nor renewed the deposition of Mr. Kruger. To date no steps have been taken to take the deposition of the Israel Corporation. Since it is plaintiff's burden to establish jurisdiction an adverse inference must be drawn from his failure to proceed with proper discovery.

Plaintiff's attorney has adduced no evidence to establish proof that American citizens own and control the Israel Corporation nor that American citizens through the Israel Corporation own and control Zim Israel or its vessel MV DAHLIA. Although the court has afforded plaintiff's attorney every opportunity for years to conduct proper discovery, the net result is absolutely no evidence on the control issues, and this total lack of proof has prompted Zim Israel's motion for summary judgment on the issue of jurisdiction.

In opposition to Zim Israel's motion, plaintiff's attorney by way of Exhibit 1 to his answering affidavit offers a prospectus of the Israel Corporation dated June 2, 1968. This prospectus refutes completely plaintiff's allegations, as contained in the complaint, that Zim Israel is owned and controlled by Americans. The prospectus shows that 57% of the shares of the Israel Corporation was held by the government of Israel and three Israeli banks while only 43% of the shares was held by

Americans. The prospectus further shows that of the Israel Corporation's 31 directors no more than 11 were American (14 were Israeli). Plaintiff's own Exhibit shows that in 1968 the Israel Corporation was not owned or controlled by Americans. In fact, the Exhibit shows that the Government of Israel, which owns 50% of Zim Israel, also owns a substantial part of the Israel Corporation. Plaintiff's Exhibit 1 together with the testimony of Mr. Kruger show that American interests never controlled the Israel Corporation. It is therefore illogical and impossible to contend further that Zim Israel is owned and controlled by Americans.

The allegations of plaintiff's attorney as to the ownership and control of Zim Israel as found in the complaint are without merit and wholly unsupported.

Plaintiff's allegation of "substantial American ownership" is meaningless and without legal significance. The test is one of "ownership and control". See Groves v. Universe Tankships Inc., 308 F. Supp. 826 (SDNY 1970); Rodriguez v. Solar Shipping Ltd., 169 F. Supp. 79 (SDNY 1958); Argyros v. Plar Compania de Navigacion, 146 F. Supp. 624 (SDNY 1956); Zielinski v. Empresa Hondurena de Vapores, 113 F. Supp. 93 (SDNY 1953).

Since plaintiff's answering papers to Zim Israel's motion for summary judgment fails to show any conceivable basis for deeming Zim Israel to be American "owned and controlled" said defendant is entitled at this time to an order dismissing the causes of action under the Jones Act, Death on the High Seas Act and the General Maritime Law of the United States.

RESPONDING TO PLAINTIFF'S POINT II

Plaintiff's attorney's answering papers in opposition to Zim Israel's motion to dismiss the complaint as time barred contend that the statute of limitations should be tolled. This contention rests upon an alleged fraud in the procuring of a release from decedent's widow. The allegation of fraud is wholly unsupported. Although the allegedly defrauded person is within the jurisdiction, she submits no affidavit. Plaintiff's contention rests solely upon the unsupported pleadings of plaintiff's attorney. As a matter of law this is insufficient. Under Rule 56(e) of the Federal Rules of Civil Procedure plaintiff must do more than assert mere allegations.

It is plaintiff's attorney's theory that fraudulent conduct and misrepresentation procured the release. He does not specify the conduct or misrepresentations of which the fraud consisted. He relies ipso facto on the age of the person giving the release and the consideration received. Plaintiff may raise a question of fact as to the validity of the release. But this is not the issue. Plaintiff's attorney does not plead fraud with the required specificity. Nor does he substantiate his claim to defeat a motion for summary judgment. There is also a flaw in plaintiff's contention that the statute should be tolled. If Zim Israel had given the widow no indemnification the suit would be barred. Because Zim Israel gave an indemnification, which plaintiff's attorney now deems inadequate, the suit should not be barred. This is illogical.

Zim Israel relies on Glus v. Brooklyn Eastern District Terminal, 359 U. S. 231 (1958). In that case the elements of fraud were clearly laid out. Defendant had induced the delay in bringing suit by misrepresenting to the plaintiff that he had

seven years in which to sue. The plaintiff relied on the misrepresentation. The Supreme Court held that the plaintiff would be entitled to a trial on the merits if he could prove "he was justifiably misled into a good faith belief that he could begin his action at any time within seven years after it occurred." (359 U. S. at 235) It is important to note that the alleged fraud therein was intimately related to the statute of limitations defense.

In Burke v. Gateway Clipper, Inc., 441 F. 2d 946 (3rd 1971) defendant's motion for summary judgment was granted and plaintiff's complaint under the Jones Act was dismissed as barred by the statute of limitations and laches. Plaintiff therein argued that the statute of limitations was tolled due to the conduct and representations of the defendant. The plaintiff gave as his reason for delay:

"Well, basically, sir, at the time this happened I was twenty-two years old, not too smart apparently, and I thought a very, very, good friend of both John Connelly's [president of the defendant] and Jack Goessling's [master of the Gateway Clipper], that they were close personal friends and they told me that I had nothing else coming to me other than my doctor and hospital bills and to apply for unemployment, and I took it as such—I didn't know any better."
(441 F. 2d at 948)

The court held that the nature of the representations and of the conduct of the defendant were of crucial significance if the plaintiff is to be allowed to invoke the equitable principal of estoppel. The court further held that the plaintiff in order to invoke the principal must prove that he was misled by defendant or his agents so that he delayed suit because of
(a) an affirmative statement that the statutory period to bring the action was longer than it actually was, or (b) promises to

make a better settlement of the claim if plaintiff did not bring suit or () comparable representations and conduct.

Plaintiff's attorney does not show any relationship between the alleged fraud and the delay in bringing suit. The court may infer that there is no relationship. It is also interesting to note that the person who instituted the suit is not the person allegedly defrauded. As a matter of law plaintiff has shown no grounds upon which Zim Israel can be estopped from asserting the statute of limitation and the defense of laches.

As appears from the affidavit of Alfredo Czarninski (attached hereto as EXHIBIT B) the plaintiff's attorney's allegations are wholly without merit. The widow requested the honorary Consul of Israel to represent her and it was he who approached Zim Israel through its agent ZAISCO. The release was translated for her and the contents thereof explained. She understood the meaning of the release. Both the widow and consul believed the sum of money received to be adequate by standards in Ecuador.

For the reasons stated Zim Israel prays that as a matter of law the asserted causes of action be dismissed as time barred.

RESPONDING TO PLAINTIFF'S POINT IV

The plaintiff's attorney's allegations herein border on the unethical. He contends that Zim Israel has failed to provide the names and addresses of the stockholders of Israel Corporation and therefore requests that Zim Israel's and ZAISCO'S answers be struck.

This issue has already been litigated and is now the

law of the case. Before Magistrate Sol Schreiber Zim Israel contended that it was the plaintiff's burden to make out his case. Zim Israel had no knowledge of the ownership of the Israel Corporation and no access to such knowledge. On August 30, 1974, the Honorable Edmund L. Palmieri ordered Zim Israel to disclose such information only if it was known. Zim Israel's verified answer to plaintiff's interrogatories dated October 15, 1974 states that after a diligent search of their records they did not have knowledge of such information. Zim Israel's answers to plaintiff's interrogatories are the end of the matter and the law of the case. There ought be no trial in which "defendants can tell the whole story about stock ownership." (Plaintiff's memorandum at p. 18.) The burden of establishing stock ownership is on the plaintiff. If the plaintiff's attorney had any plausible evidence the time to present it was in his answering papers to said defendant's motion for summary judgment. The plaintiff's attorney merely submitted only a document (Exhibit 1) which refutes his position.

CONCLUSION

ZIM ISRAEL'S MOTION FOR SUMMARY JUDGMENT MUST BE GRANTED BECAUSE THE PLAINTIFF HAS ADDUCED NO EVIDENCE TO ESTABLISH ANY QUESTION OF FACT.

Respectfully submitted,

HILL, BETTS & NASH
Attorneys for Defendant
Zim Israel Navigation Co. Ltd.

ROBERT S. BLANC, Esq.
GREGORY W. O'NEILL, Esq.
Of Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENTERED

JAN 6 1975

THOMAS L. FITZGERALD, Public Administrator
of the County of New York, State of New York,
as personal representative of the estate of JACIN-
TO VICENTE MEJIA RENTERIA,

REFERRED TO

RSB/NFM/G
Rig

Plaintiff, : Judge Palmieri

-against-

71 Civ 1 2992

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI
NAVIGATION CO., ZIM ISRAEL NAVIGATION
CO. LTD, ZIM LINES and AMERICAN-ISRAELI
SHIPPING CO., INC.

NOTICE OF
TAKING
DEPOSITION

Defendants. :
-----X

S I R S :

PLEASE TAKE NOTICE that the plaintiff, by his attorney,
will take the deposition upon oral examination of HARVEY KRUEGER,
c/o KUHN LOEB & CO., 40 Wall Street, New York, New York,
pursuant to the Federal Rules of Civil Procedure before a Notary
Public, or before some other authorized officer, at Room 1100 East,
160 Broadway, New York, New York, on the 22nd day of January,
1975, at 2:00 P.M., or on a lawfully adjourned day, and from day to
day thereafter until the exmination is completed, and this witness is
to bring all documents, books of accounts, correspondence and all
other records showing the transactions with ISRAEL CORPORATION.

Dated : New York, New York
January 3rd, 1975

Yours, etc.,

THOMAS M. BREEN
Attorney for Plaintiff
Office & P.O. Address
160 Broadway
New York, N.Y. 10033
BFekman 3-3740

TO: HILL, BETTS & NASH, Esqs.,
Attorneys for Defendants
One World Trade Center
Suit 5215
New York, New York 10038

EXHIBIT A

30
1/3/75
Jury
1/3/75

1049

AFFIDAVIT

ALFREDO CZARNINSKI, being duly sworn says:

I am 57 years of age, a self-employed businessman and a citizen and resident of Ecuador. I have served as an honorary Consul of Israel in Guayaquil for 10 years without remuneration.

In this capacity I have been frequently requested to intervene on behalf of Ecuadorian citizens in matters involving them and Israeli corporations.

In October, 1968, Mrs. Mejia came to me and asked me to help her. She said her husband had been employed by the Zim Israel Navigation Co. Ltd. and had died at sea. She wanted me to write on her behalf to see what indemnification could be obtained.

I agreed to help her. I acted on her behalf at her request, and to the best of my belief, I acted in her best interest.

I wrote to the Zim Israel Navigation Co. Ltd.'s agents in New York. They promised to pay \$2400.00 and in return requested that Mrs. Mejia execute a release in favor of the principal.

When I informed Mrs. Mejia of the offer she was grateful to me, said the offer was acceptable, and was eager to consummate the transaction.

The release was executed on November 6, 1968. I was present at the execution of the release. At that time I did not represent the Zim Israel Navigation Co. Ltd., but continued to act on behalf of Mrs. Mejia. In my presence the release was translated for Mrs. Mejia and the contents thereof explained to Mrs. Mejia. She understood the meaning of the release.

To the best of my knowledge and belief the release was duly executed under the law of Ecuador, freely entered into; and given for an adequate consideration.


ALFREDO CZARNINSKI

EXHIBIT B

Guayaquil, Ecuador

1059

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
THOMAS I. FITZGERALD, Public Adminis-
trator of the County of New York, State
of New York, as personal representative
of JACINTO VICENTE MEJIA RENTERIA,
Deceased,

Plaintiff,

-against-

ZIM ISRAEL NAVIGATION CO., ZIM
ISRAELI NAVIGATION CO., ZIM ISRAEL
NAVIGATION CO. LTD., ZIM LINES and
AMERICAN-ISRAELI SHIPPING CO., INC.,

Defendants.
-----x

A P P E A R A N C E S

THOMAS M. BREEN, ESQ.
160 Broadway
New York, N. Y. 10038
Attorney for Plaintiff

HILL, BETTS & NASH, ESQS.
One World Trade Center
New York, N. Y. 10048
Attorneys for Defendants

MAY 16 3 40 PM '75
SECRET

71 Civ. 2992
(ELP)

#42430

MICROFILM

MAY 19 1975

PALMIERI, J.

On April 19, 1968, Jacinto Vicente Mejia Renteria, a native of Ecuador serving as a deck seaman aboard the Israeli ship M/V DAHLIA, was ordered to slush or paint a boom cable with grease. While attempting to descend to the deck, he fell, suffering severe and ultimately fatal head injuries. At the time of his injury the ship was approximately 500 miles east of Yokahama, its last port. The ship continued westward and on April 21, 1968, in the vicinity of Guam, radioed a U. S. Coast Guard cutter for medical advice. On April 23, 1968, decedent died aboard ship under the care of a U.S. Coast Guard doctor, and his body was submitted for autopsy in Honolulu, Hawaii. Surviving him are his widow and child. Decedent's personal representative now seeks recovery for them from this court, relying on the Jones Act, 16 U.S.C.A. § 688, the Death on the High Seas Act, 46 U.S.C.A. § 761, and General Maritime Law.¹

In this series of motions plaintiff moves pursuant to Rule 15, F. R. Civ. P. to amend his complaint and increase the ad damnum. Zim American Israeli Shipping Co., Inc. (Zim American), sued herein as American-Israeli Shipping Co., moves pursuant to Rule 56, F. R. Civ. P., to dismiss this action as to itself for failure to state a meritorious

claim. Zim American and Zim Israel Navigation Co., Ltd. (Zim Israel)* move pursuant to Rule 56, F. R. Civ. P., to dismiss this action for lack of subject matter jurisdiction and as time barred, or, in the alternative, for an order pursuant to Rule 12(b), F. R. Civ. P., dismissing the action on the ground of forum non conveniens.

I. Subject Matter Jurisdiction

The Supreme Court set forth in Lauritzen v. Larsen, 345 U.S. 57 (1953), the contacts between events in an international shipping transaction and the United States which a court must consider in determining whether it may exercise its jurisdiction under the Jones Act. In Romero v. International Terminal Operating Co., 358 U.S. 354, 382 (1959), it was further held that the Lauritzen criteria were "intended to guide courts in the application of maritime law generally." Reciting the substantially conceded facts of the present case in accord with the Lauritzen enumeration, we find that: (1) the place of the wrong was the high seas; (2) the law of the flag was Israeli; (3) the domicile of the injured party was Ecuador; (4) the allegiance of the shipowner

* Zim Israel Navigation Co., Ltd. and Zim American Israeli Shipping Co. are the only actual defendants. American-Israeli Shipping Co. was the former name of Zim American. Zim Israel Navigation Co. and Zim Israeli Navigation Co. are non-existent corporations. Zim Lines is a trade name.

was Israel; (5) the place where the contract was made was Ecuador. Hellenic Lines Ltd. v. Rhoditis, 398 U.S. 306 (1970), held that the shipowner's base of operations is another factor to be considered, and this we find to be Israel.

In Rhoditis, supra, the Supreme Court also expressly adopted the test set forth by Judge Medina in Bartholomew v. Universe Tankships, Inc., 263 F.2d 437, 440-41 (2d Cir.), cert. denied, 359 U.S. 1000 (1959), for the evaluation of these contacts. Under that test Jones Act jurisdiction will lie only when there are "substantial" contacts between the events in the case and the United States, and that substantiality is to be determined on an absolute scale and not by comparing or balancing the presence of certain contacts with the absence of others.

The contacts on which plaintiff relies for the assertion of Jones Act jurisdiction include first that the U. S. Coast Guard was summoned for assistance to the injured seaman, that it later reported on its investigation of his death, and that decedent's body was submitted for autopsy in Honolulu. The Lauritzen court recognized that in a seaman's action the lex locus delicti is largely fortuitous and for this reason should not be determinative. 345 U.S. at 583-84. Decedent was injured on April 19, 1968, when his ship was some five hundred miles east of Japan.

and plaintiff alleges, inter alia, that the captain was negligent in failing to return to port in Yokahama to obtain medical assistance. On April 21, 1968, the ship was in international waters when the captain radioed a U. S. Coast Guard cutter for medical advice. Decedent died on April 23, 1968, aboard ship while in the care of a U. S. Coast Guard doctor, and, as noted, his body was subsequently subjected to autopsy in Hawaii. That these events occurred in proximity to American waters and that an American doctor treated the decedent are fortuitous circumstances. Had the captain sought medical assistance at the time of decedent's injury he would have returned to port and sought out a Japanese physician. This intervention of American personnel in a medical emergency on the high seas is not a contact substantial enough to permit this court to predicate jurisdiction upon it.

Plaintiff next asserts that the allegiance of the shipowner was not to Israel, but that the Israeli flag was merely one of convenience to hide American ownership. The Lauritzen court observed that traditional maritime law "gives cardinal importance to the law of the flag," 345 U.S. at 584, but that when Americans sail under a foreign flag of convenience in order to avoid the obligations of American law, that flag can be disregarded. Id. at 587. However,

plaintiff's charge that the Israeli flag was illusory is not tenable. Zim Israel is the Israeli national merchant marine and is owned in part by the Israeli government and in part privately.

It is this private ownership on which plaintiff relies most strongly in his contention that this court has jurisdiction to apply American law. Plaintiff argues correctly that where it has been demonstrated that the actual ownership of the vessel resides in Americans, this has been found to be a substantial enough contact on which to base Jones Act jurisdiction. In Rhoditis, supra, more than 95% of the stock in the defendant corporation was owned by a Greek citizen who had been domiciled in the United States for twenty-five years, and the firm's largest office was in New York. It was held in both Bartholomew v. Universe Tankships, Inc., supra, and Groves v. Universe Tankships, Inc., 308 F. Supp. 826 (S.D.N.Y. 1970), that Jones Act jurisdiction would lie as against a Liberian owned vessel flying the flag of Liberia when all the stock of the Liberian corporation was held by a Panamanian corporation, and all the stock of the Panamanian corporation was held by United States citizens, whose principal offices and operating headquarters were in New York.

In the present case plaintiff seeks to convince the court that there exists "substantial American ownership

of defendants." He charges that at the present time Zim American is 100% owned by Zim Israel which is in turn 50% owned by The Israel Corporation, Ltd. which is in turn 35-50% owned by Americans. We first note that the court must look to ownership of the defendants in 1968, at the time of the accident and not as it may be presently. Plaintiff has presented nothing to controvert defendants' assertion that in 1968 Zim Israel was 80% owned by the Israeli government, and that both then and now its operating headquarters were in Haifa, Israel. Moreover, the documents which plaintiff himself offers indicate that it was only in 1971 that The Israel Corporation obtained its 50% interest in Zim Israel, apparently from the Israeli government² and in a deposition obtained by plaintiff from an American director of The Israel Corporation that party stated his belief that the equity in The Israel Corporation is currently only 15% American owned. Plaintiff adduces no evidence to support his challenge to the veracity of that statement, but even if his allegations as to 35-50% American ownership are true, they allege no more than that Americans now own about one-half of a corporation owning one-half an interest in Zim Israel and Zim American. Absent a convincing demonstration of American control over the operation of the ship, such a one-quarter interest cannot meet the test of a substantial contact.³

Plaintiff's efforts to convince the court that the M/V DAHLIA was in fact controlled from New York are in no way persuasive. In two recent decisions Zim American was found to be no more than the disclosed husbanding agent for Zim Israel, and, as such, not liable as an employer. McCoy v. American Israeli Shipping Co., Inc., 42 A.D.2d 12, 344 N.Y.S.2d 707 (1st Dep't 1973), aff'd, 34 N.Y.2d 569 (1974); Scully v. Zim Israel Navigation Co., Ltd., 1968 A.M.C. 1209 (S.D.N.Y. 1968). In McCoy allegations with respect to ownership, similar to those in the present case were made, and the court stated

"The affidavit, by plaintiff's attorney, in opposition to the motion by defendants, speculates as to stock ownership in individuals and other corporations in the United States which influence or control Zim Israel, but he does not really controvert the status of defendants as disclosed agents." 344 N.Y.S.2d 709.

Plaintiff herein insists that because the crew of the M/V DAHLIA was hired and discharged through New York; because the cables relating to decedent's death were routed through New York; and because the payment and voucher of the release signed by the widow⁴ came from New York, there is ample evidence that the ship was in fact controlled by Zim American from New York. The language of the court in Cosmopolitan Shipping Co. v. McAllister, 337 U.S. 783, 795 (1949) is wholly applicable to these assertions.

"No single phrase can be said to determine the employer. One must look to the venture as a whole. Whose orders controlled the master and the crew? Whose money paid their wages? Who hired the crew? Whose initiative and judgment chose the route and the ports? ... No evidence has come to our attention that indicates that the general agent ever undertook to give orders or directions as to the route or the management of the ship while on voyage." 337 U.S. at 795.

The mere fact that Zim American, through its subagents abroad, arranges for the hire of seamen and communicates with these subagents in instances such as a seaman's death cannot support plaintiff's assertions that actual ownership and control of the ship resided in this New York corporation.

Plaintiff finally urges that the case be tried under American law because Israeli law, the law of decedent's contract, provides no remedy. He claims that there is no guarantee of a jury trial or that the law of comparative negligence prevails. The purported illiberality of a foreign maritime remedy was discussed in Yarakis v. Greek Line, Inc., 382 F. Supp. 774, 777 (E.D. Pa. 1974), and found to be an inadequate ground for the application of American law, or for retaining a case for decision under foreign law. This court is in accord with that decision. To invoke American law solely on the possibility of more generous relief for the plaintiff would transgress the very notion of international comity upon which the law of admiralty rests. See Lauritzen, supra, 345 U.S. at 581-2.

The contacts between the events in this case and the United States are either fortuitous or completely insubstantial. There is no ground for the assertion of this court's jurisdiction under the Jones Act, the Death on the High Seas Act, or General Maritime Law. Plaintiff's claim that the extent of American financial interest in Zim Israel is a genuine issue of material fact which can only be resolved at trial is not supported by the evidence. Defendants' motion to dismiss for lack of subject matter jurisdiction is granted.

We likewise do not agree with plaintiff's contention that the true role of Zim American presents an issue for trial. As is evident from the discussion above, Zim American is no more than the disclosed husbanding agent for Zim Israel and as such cannot be held liable as decedent's employer. The motion of Zim American for summary judgment dismissing the complaint as to itself on the ground that the cause of action against it is without merit is granted.

II. Motion to Dismiss for Forum Non Conveniens

Plaintiff, by his reliance on Gkiafis v. Steamship Yiosonas, 387 F.2d 460 (4th Cir. 1967) and Lodakis v. Oceanic Petroleum Steamship Co., 223 F. Supp. 771 (E.D. Pa. 1963), suggests that this court retain jurisdiction of this action and decide the issues on the basis of foreign law. Defendants

move to dismiss on the ground of forum non conveniens notwithstanding this court's conceded power to retain jurisdiction. Lauritzen v. Larsen, 345 U.S. 571, 575, 589-590 (1953); The Belgenland, 114 U.S. 355 (1855).

The doctrine of forum non conveniens had its origins in admiralty, and in a maritime suit between aliens the court must look both to Lauritzen contacts, supra, and to the classic forum non conveniens test enunciated in Gulf Oil v. Gilbert, 330 U.S. 501 (1947) for a resolution of the issue. Xerakis, supra, 382 F. Supp. at 776. As stated in Gulf Oil

"Important considerations are the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; ... and all other practical problems that make trial of a case easy, expeditious and inexpensive." 330 U.S. at 508.

Defendants herein assert as forum non conveniens grounds that all necessary documents are in Israel or Ecuador; all potential witnesses to the accident and to the widow's release are in Ecuador and most speak no English; all potential witnesses for the vessel are in Israel or Greece; this court cannot compel the attendance of these witnesses; the expense of bringing witnesses here would be significant. Plaintiff counters that decedent's widow is now in New York and that the ship's logs and Coast Guard reports are in English. This is not enough to withstand the observation

of the Gulf Oil court that "to fix the place of trial at a point where litigants cannot compel personal attendance and may be forced to try their cases on deposition, is to create a condition not satisfactory to court, jury or most litigants." 330 U.S. at 511. This court is especially mindful that many witnesses, whether they appear in person or by deposition, will be heard through an interpreter, which is obviously undesirable.

The Gulf Oil court was also concerned with what it termed "[f]actors of public interest." It sought to avoid piling up litigation in congested centers which could be heard at its origins; burdening jurors in a community with no relationship to the litigation; and having courts untangle problems in foreign law. 330 U.S. at 509. In the present case there may well be a foreign law problem wherever it is tried, in that the law of the contract is Israeli, but if plaintiff alleges fraud in the procurement of the widow's release (see footnote 4, supra) that tort is governed by the law of Ecuador. However, in either Ecuador or Israel, a court would have only one foreign law with which to familiarize itself, whereas in this forum, if the complaint is amended (an issue which we do not decide) the court will be faced with two.

Plaintiff finally urges that because it is seven years since decedent's death and nearly four years since the

commencement of suit, it would be unjust to decline jurisdiction on the basis of a motion made on the eve of trial. / Gkiafis v. Steamship Yiosonas, supra; Conte v. Flota Mercante Del Estado, 277 F.2d 664 (1960). This case has been so long in this forum first because of the necessity for substituting a proper party as plaintiff (see footnote 1), and second because of plaintiff's vigorous assertions that given an opportunity for full discovery he would be able to prove that the American financial interest in Zim Israel and Zim American was such that Jones Act jurisdiction would lie. Since the commencement of this suit defendants have indicated their desire to move for dismissal on the ground of forum non conveniens. The court requested them to refrain from so moving until all discovery relating to the question of ownership and control was completed, a procedure mandated by Lekkas v. Liberian M.V. Caledonia, 443 F.2d 10 (4th Cir. 1971). There is no question here, as there was in Conte v. Flota Mercante Del Estado, supra, of defendants' "failure to move for dismissal until libelant had expended both time and money and the suit was about to be tried." 277 F.2d at 668. Any delay in the making of this motion is chargeable wholly to plaintiff's wide-ranging efforts to prove American ownership and control of the M/V DAHLIA. Having failed to so demonstrate, plaintiff cannot now use this lengthy discovery period to bootstrap himself into an equitable argument for

maintenance of the action in this forum based on lapse of time.

Substantive contacts between this case and this forum are non-existent, and its trial in this forum, under foreign law and through interpreters, would be unnecessarily difficult procedurally. Retention of jurisdiction in a case such as that at bar is ultimately discretionary, and this court is guided in the exercise of its discretion by Judge Friendly's views, as expressed in Conte v. Flota Mercante Del Estado, supra.

"It is prima facie undesirable that an overburdened District Court should conduct a trial in a personal injury action between foreigners, with all the evidence on the issue of liability and much of the evidence on damages given in a foreign tongue by witnesses equally or more available in the foreign forum, and with reliance having to be placed on expert testimony⁵ as to the governing law" 277 F.2d at 667.

Defendants state that they will voluntarily submit to trial of this action in either Ecuador or Israel, and that they will waive any objections there to jurisdiction or statutes of limitation. They have designated their agent in Guayaquil, Ecuador as their agent for service of process in that country. We shall incorporate these representations as conditions of the order of dismissal. We direct that as a further condition of dismissal defendants post a bond in the amount of \$25,000.00 to secure their appearance and the payment of any judgment against them pending the outcome of any foreign litigation. The order to be settled dismissing the claim in this libel


should contain appropriate provisions with respect to these conditions.

Under the facts of this case we are compelled to find that there is no ground for retention of this suit in this forum, and that justice would be more readily served by a trial before the courts of Ecuador or Israel. In light of the disposition made herein it is unnecessary to pass upon either of plaintiff's motions or defendants' claim that the action is time barred.

'The motion to dismiss on the ground of forum non conveniens is granted.

.Settle order on notice.

Dated: New York, N. Y.
May 16, 1975


EDMUND L. PALMIERI
U. S.D. J.

FOOTNOTES

1. This action was originally begun on July 6, 1971, by decedent's sister, a New York resident. Defendants objected, inter alia, that she was without standing to sue, and her counsel thereupon moved to have the Public Administrator of New York County appointed as decedent's personal representative and substituted as plaintiff in this action. Letters of Administration were granted to the Public Administrator by the Surrogate's Court on June 18, 1973, and the Public Administrator was substituted as plaintiff in this action by court order on December 4, 1973.
2. American Israel Corporation, 30th Annual Report, President's Report, p. 1-2.
3. In Southern Cross Steamship Co. v. Firipis, 285 F.2d 651 (4th Cir. 1960), the court found Jones Act jurisdiction when at the time of the injury the corporate stock was owned 20% by an American and 80% by Greeks. However, it appeared that many of those Greeks were actually residents of the United States and that "the ship was really controlled from New York."
4. On November 6, 1968, in Ecuador, decedent's wife signed a release of all her rights individually as decedent's widow and for their child in favor of Zim Israel Navigation Co., Ltd. and M/V DAHLIA for a consideration of \$2,400.00.
5. And see Xerakis v. Greek Line, Inc., supra, 382 F.Supp. at 777:

"To try this case here under Greek law invades the prohibited area of which Justice Jackson spoke that 'the plaintiff may not, by choice of an inconvenient forum, "vex," "harass," or "oppress" the defendant by inflicting upon him expense or trouble not necessary to his own right to pursue his remedy.' ...[citing Gulf Oil] 330 U.S. at 508."

100. ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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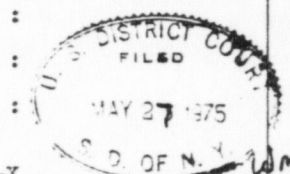
Thomas I. Fitzgerald, Public Administrator : 71 Civ. 2992
of the County of New York, State of New
York, as personal representative of : Judge Palmieri
Jacinto Vincente Mejia Renteria,

Plaintiff,

vs.

Zim Israel Navigation Co., Ltd., et al.,
Defendants.

: NOTICE OF MOTION
: FOR REARGUMENT



-X

S I R S:

PLEASE TAKE NOTICE, that upon the annexed memorandum of Thomas M. Breen, dated May 23, 1975 and upon all the pleadings and proceedings heretofore had herein, and the opinion of the Hon. Edmund L. Palmieri, U.S.D.J., dated May 16th, 1975, the undersigned will move this Court before the Honorable Edmund L. Palmieri, United States District Judge, at Room 2003 of the United States Court House, Foley Square, in the Borough of Manhattan, City of New York, on the 10th day of June, 1975 at 10:00 o'clock in the forenoon of that day or as soon thereafter as Counsel can be heard for an order pursuant to Rule 9 (m) of the General Rules of this Court granting reargument of the motions ruled upon in the Court's opinion #42430, dated May 16th, 1975, including oral argument, and for such other and further relief as the Court may deem proper.

Dated: New York, New York
May 23, 1975

Yours, etc.,

TO: HILL, BETTS & NASH, ESQS.
One World Trade Center
New York, N.Y. 10048
466-4900
Attorneys for Defendants

THOMAS M. BREEN
Attorney for Plaintiff
160 Broadway
New York, N.Y. 10038
BEekman 3-3740

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THOMAS I. FITZGERALD, Public Administrator, Etc. v.
ZIM ISRAEL NAVIGATION CO., ET AL., 71 Civ. 2992 (ELP)

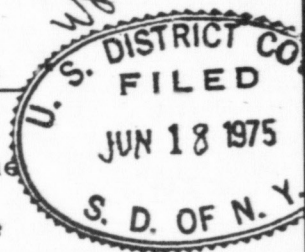
The motion for reargument is granted and the
court adheres to its opinion dated May 16, 1975. See
opinion dated June 18, 1975, filed herewith.

Dated: New York, N. Y.
June 18, 1975

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JUN 19 1975


EDMUND L. PALMIERI
U. S. D. J.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

THOMAS I. FITZGERALD, Public Admini-
strator of the County of New York,
State of New York, as personal repre-
sentative of JACINTO VICENTE MEJIA
RENTERIA, Deceased,

Plaintiff,

71 Civ. 2992
(ELP)

-against-

ZIM ISRAEL NAVIGATION CO., ZIM
ISRAELI NAVIGATION CO., ZIM ISRAEL
NAVIGATION CO. LTD., ZIM LINES and
AMERICAN-ISRAELI SHIPPING CO., INC.,

Defendants.

-----X

A P P E A R A N C E S

THOMAS M. BREEN, ESQ.
160 Broadway
New York, N. Y. 10038
Attorney for Plaintiff

HILL, BETTS & NASH, ESQS.
One World Trade Center
New York, N. Y. 10048
Attorneys for Defendants

ROBERT S. BLANC, ESQ.
GREGORY W. O'NEILL, ESQ.
Of Counsel

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JUN 18 1975

S.D. OF N.Y.

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U.S. DISTRICT COURT

PALMIERI, J.

Plaintiff, pursuant to Rule 9(m) of the General Rules of this court moves for reargument of the motions ruled upon in the court's opinion dated May 16, 1975. The motion is granted and the court adheres to its opinion.

Plaintiff now asserts that the court "apparently overlooked" the jurisdiction question with respect to the Death on the High Seas Act (DOHSA), because no case cited in the opinion refers to it specifically, and that he has an "absolute right" to sue in American courts under this act, either under American or foreign law. He claims that with respect to DOHSA "there is no such thing as jurisdictional contacts."¹

In discussing the subject matter jurisdiction aspect of this litigation, the court cited Romero v. International Terminal Operating Co., 358 U.S. 354, 382 (1959). It was there stated that the criteria advanced for evaluating jurisdictional contacts in Lauritzen v. Larsen, 345 U.S. 571 (1953) "were intended to guide courts in the application of maritime law generally." Plaintiff's attempt to read this sentence as referring to General Maritime Law so as to exclude DOHSA, and to claim for DOHSA an absolute jurisdictional mandate is wholly unsupportable.

A similar claim as to jurisdiction was made with respect to the Jones Act in Lauritzen, supra, and the court

therein, in rejecting the notion of universal applicability of the statute as contrary to principles of international comity observed

"If read literally, Congress has conferred an American right of action which requires nothing more than that the plaintiff be 'any seaman who shall suffer personal injury in the course of his employment.' It makes no explicit requirement that either the seaman, the employment or the injury have the slightest connection with the United States. Unless some relationship of one or more of these to our national interest is implied, Congress has extended our law and opened our courts to all alien seafaring men injured anywhere in the world in service of watercraft of every foreign nation..." 345 U.S. at 566-67.

Plaintiff's reading of the Death on the High Seas Act, which speaks only of "the death of a person... occurring on the high seas" would produce a similar result. In the words of defendants, "A United States statute which grants aliens the absolute right to sue other aliens in our courts without regard to contacts with the jurisdiction is, in effect, a statute of cosmic application." The construction which plaintiff proposes is unsupported by law and repugnant to traditional concepts of comity and choice of law."

Plaintiff now asserts that "when jurisdiction is expressly given by statute to a United States court by Congress, the court must hear the case and cannot decline

jurisdiction." However, none of the cases upon which plaintiff relies deals with the Death on the High Seas Act,² and it is manifest that that act confers no absolute jurisdiction.

Plaintiff's reliance upon 46 U.S.C.A. § 597 as being analogous to the Death on the High Seas Act is wholly erroneous. That statute deals with payment of seamen in ports. It details the demands which a seaman on a vessel of the United States may make for wages when in port, and concludes, "this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement" (emphasis supplied). As discussed in Strathearn S.S. Co. v. Dillon, 252 U.S. 348 (1920), the Congressional intent behind this aspect of the statute was to place foreign and American seamen on an equality of right insofar as this statute was concerned in order that employers would not favor the employment of foreign seamen, who could not sue for wages, at the expense of American seamen. The Strathearn court also made reference to Patterson v. Bark Eudora, 190 U.S. 169 (1902), wherein it was held that "the jurisdiction of this government over foreign vessels in our ports was such as to give authority to Congress to make provisions of the character now under consideration."

Unlike 46 U.S.C.A. § 597, DOHSA contains no mandatory language with respect to its enforcement in courts of the United States, nor does it set forth any explicit jurisdictional contact, such as the presence of the ship in a United States harbor.

Nothing in the history of DOHSA indicates a Congressional intent to invite aliens to pursue their death claims in our courts regardless of contacts with the jurisdiction. See Wilson v. Transocean Airlines, 121 F. Supp. 85 (N.D. Cal., 1954, Goodman, J.) As stated by then District Judge Irving R. Kaufman* in Bergeron v. Koninklijke Luchtvaart Maatschappij, N.V., 188 F. Supp. 594, 597 (S.D.N.Y. 1960)

"It seems clear that the primary purpose for the enactment of the Death on the High Seas Act was to assure that there would be some recovery for the wrongful death of American citizens dying in disasters on the high seas."

Plaintiff now seeks to amend his complaint pursuant to 46 U.S.C.A. § 764 to allege foreign law,³ as if that section of DOHSA, which permits maintenance in admiralty of a right of action granted by the law of any foreign state on account of death by wrongful act, gives him an absolute right to proceed in our courts. In fact, it is no more than a recognition of choice of law principles. Bergeron, supra at 597.

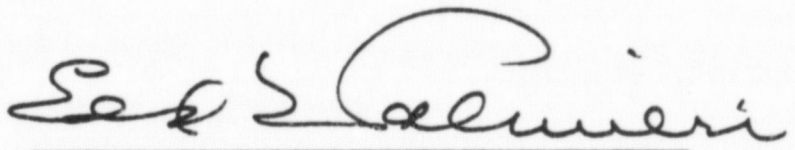
* Now Chief Judge of the Court of Appeals for the Second Circuit.

Plaintiff relies upon Tsangarakis v. Panama S.S. Co., 197 F. Supp. 704 (E.D. Pa. 1961), a DOHSA case in which, despite the complete absence of contacts with the United States, the District Court assumed jurisdiction. The opinion did not discuss subject matter jurisdiction, but it denied a motion to dismiss on forum non conveniens grounds which, if granted, would have relegated plaintiff to a Greek court. If DOHSA conferred the "absolute" jurisdiction, analogous to that in 46 U.S.C.A. § 597, which plaintiff claims for it, the Tsangarkis court could not have entertained a forum non conveniens motion which might have ousted the case completely from American courts, a point which plaintiff overlooks. Additionally, the views of the Tsangarkis court with respect to forum non conveniens are not consonant with those of the Second Circuit as expressed by Judge Friendly in Conte v. Flota Mercante Del Estado, 277 F.2d 664, 667 (2nd Cir. 1960), to which we have already noted our adherence.

The court reaffirms the views expressed in its opinion and plaintiff's request to amend his complaint to allege foreign law under 46 U.S.C.A. § 764 of the DOHSA is denied.

It is so ordered.

Dated: New York, N. Y.
June 18, 1975

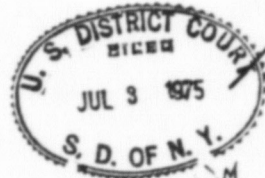

EDMUND L. PALMIERI
U. S. D. J.

FOOTNOTES

1. Plaintiff's original answer made no claim of an "absolute right" to proceed in an American court under DOHSA. It urged only that the contacts between this case and the United States were substantial enough for the court to retain jurisdiction and apply American law.
2. Lakos v. Saliaris, 116 F.2d 440 (4th Cir. 1940) deals with 46 U.S.C.A. § 597, Payment in ports. O'Donnell v. Elgin, Joliet & Eastern Railway Co., 193 F.2d 348 (7th Cir. 1952) is a Federal Employer's Liability Act case, 45 U.S.C.A. § 51. Federal Savings and Loan Insurance Corp. v. Krueger, 435 F.2d 633 (7th Cir. 1970) and Mach-Tronichs, Inc. v. Zirpoli, 316 F.2d 820 (9th Cir. 1963) are concerned with the abstention doctrine. Romero v. Weakley, 226 F.2d 399 (9th Cir. 1955) deals with claims raised under the Civil Rights Act and the Fourteenth Amendment.
3. It appears from plaintiff's reply that he wishes to allege Ecuadorian law. Although decedent was a citizen of Ecuador, he died aboard an Israeli vessel, and the articles which he signed provided that Israeli law would govern.

MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
THOMAS I. FITZGERALD, Public Administrator :
of the County of New York, State of New :
York, as personal representative of the :
estate of JACINTO VICENTE MEJIA RENTERIA, :

Plaintiff, :

-against-

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI :
NAVIGATION CO., ZIM ISRAEL NAVIGATION CO. :
LTD., ZIM LINES and AMERICAN-ISRAELI :
SHIPPING CO., INC., :

Defendants. :
-----X

ORDER

71 Civ. 2992
Judge Palmieri

The defendant, Zim Israel Navigation Co., Ltd., having moved this Court on the 3rd day of April 1975, for an order pursuant to Rule 56 F.R. Civ. P. dismissing the complaint for lack of subject matter jurisdiction and as time barred or in the alternative, for an order pursuant to Rule 126 F.R. Civ. P. dismissing the action on the ground of Forum non conveniens, and due deliberation having been had,

NOW, upon reading and filing the notice of motion dated March 19, 1975, the affidavit of ROBERT S. BLANC, a member of the firm of Hill, Betts & Nash, attorneys for the defendants, dated the 19th day of March 1975, with the memorandum of law and Exhibits "A" through "D" attached thereto in support thereof, the answering affidavit of THOMAS M. BREEN, attorney for plain-

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tiff, dated the 28th day of March 1975, with memorandum of law and exhibits attached thereto or referred to therein, in opposition thereto; and the reply memorandum of Robert S. Blanc and Gregory W. O'Neill with Exhibits "A" and "B" attached thereto, it is

Adjudged and Decreed
~~ORDERED~~ that the causes of action against Zim Israel under the Jones Act, Death on the High Seas Act and General Maritime Law are dismissed for lack of subject matter jurisdiction, and it is further

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ES
ORDERED, that any further claim which plaintiff may have against defendant Zim Israel is dismissed on the ground of Forum non conveniens provided: (1) plaintiff is given ⁽²⁰⁾ ~~30~~ days from the entry of this Order to reinstitute this action in either Ecuador or Israel; (2) Zim Israel agrees to appear and answer in any such action in either Ecuador or Israel; (3) Zim Israel consents to waive the defense of statute of limitations and all objections to the jurisdiction of the courts of Ecuador and Israel; (4) Zim Israel issues a letter of indemnity in the amount of \$25,000.00 to secure its appearance and the payment of any judgment against it pending the outcome of any such action instituted within said period.*

S. J. [Signature]
U.S.D.C. JUDGE

Dated: New York, New York

JUNE 30TH, 1975

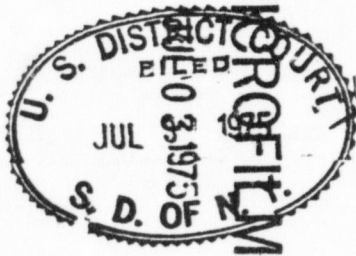
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- * (5) that in the event plaintiff finds it necessary to institute an action with reference to the bond or letter of indemnity in the amount of \$25,000.00 that the defendants and any other person responsible for the payment of \$25,000.00, as guarantor, surety, indemnitor, or otherwise will accept service of process through Lamorte, Burns & Co., One World Trade Center, New York New York.

THOMAS I. FITZGERALD v. ZIM ISRAEL NAVIGATION CO.,
ZIM ISRAELI NAVIGATION CO., LTD, ZIM LINES and
AMERICAN-ISRAELI SHIPPING CO., INC., 71 Civ. 2992

In filing the attached order the court is mindful of a very recent decision by the Court of Appeals for the Second Circuit, Fitzgerald v. Texaco, Inc. and Texaco Panama, Inc., slip opinion Nos. 195 and 205, Docket Nos. 74-1958 and 74-1468 (June 25, 1975) of which the parties have apparently had no notice. This decision would appear to dispose of any doubt concerning the correctness of the conclusions set forth in this court's opinions of May 16, 1975 and June 18, 1975.

Dated: New York, N.Y.
July 3, 1975

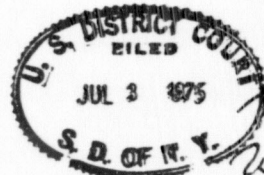

EDMUND L. PALMIERI
U.S.D.J.



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x
THOMAS I. FITZGERALD, Public Administrator :
of the County of New York, State of New :
York, as personal representative of the :
estate of JACINTO VICENTE MEJIA RENTERIA, :

Plaintiff, :

-against-

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI :
NAVIGATION CO., ZIM ISRAEL NAVIGATION CO. :
LTD., ZIM LINES and AMERICAN-ISRAELI :
SHIPPING CO., INC., :

Defendants, :
-----x

ORDER *f Judgment*

71 Civ. 2992
Judge Palmieri

The defendant, Zim-American Israeli Shipping Co., Inc.,
sued herein as American-Israeli Shipping Co., Inc., having moved
this Court on the 3rd day of April 1975, for an order pursuant
to Rule 56, dismissing the complaint for failure to state a
meritorious claim against it, and due deliberation having been
had,

NOW, upon reading and filing the notice of motion dated
March 19, 1975, the affidavit of ROBERT S. BLANC, a member of the
firm of Hill, Betts & Nash, attorneys for the defendants, dated
the 19th day of March 1975, with the memorandum of law and
Exhibits "A" through "D" attached thereto, in support thereof,
the answering affidavit of THOMAS M. BREEN, attorney for plain-
tiff, dated the 28th day of March 1975, with memorandum of law

1349

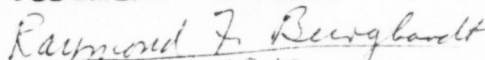
and exhibits attached thereto or referred to therein, in opposition thereto; and the reply affidavit of ROBERT S. BLANC dated the 4th day of April 1975, it is

Admitted & Decided:
ORDERED, that the motion of Zim-American Israeli Shipping Co., Inc., pursuant to Rule 56 of the Federal Rules of Civil Procedure, for summary judgment dismissing the complaint as to itself on the ground that the cause of action against it is without merit is granted.


U.S.D.C.J. *EJC*

Dated: New York, New York
JUNE 30th, 1975

JUDGMENT ENTERED - 7/7/75


CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

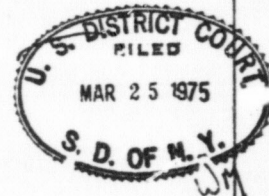
-----X
THOMAS I. FITZGERALD, Public Adminis- : 71 Civ. 2992
trator of the County of New York, State :
of New York, as personal representative : Judge Palmieri
of the estate of JACINTO VINCENTE MEJIA :
RENTERIA, :

Plaintiff, : *CINCENT*
PRE-TRIAL
ORDER

-against- :

ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI :
NAVIGATION CO., ZIM ISRAEL NAVIGATION CO. :
LTD., ZIM LINES and AMERICAN-ISRAELI :
SHIPPING CO., INC., :

Defendants. :
-----X



On December 19th, 1974, the parties in this action or their attorneys appeared before the Court at a pre-trial conference pursuant to local Calendar Rule 6 and 13 and Rule 16 of the Federal Rules of Civil Procedure, and the following action was taken:

1. The parties agreed that the trial of this action should be based on this order. No issues raised by the pleadings are abandoned.

2. It is plaintiff's contention that:

In May, 1967, the decedent joined the S.S. DAHLIA, in the Steward's Dept. During the course of his employment on the vessel, he became a deck seaman. On April 19th, 1968, he was ordered to slush or paint with grease the boom cable and other appurtenances from the first bow mast at No. 1 hold of the vessel. While engaged in doing this work and related acts, he was caused to fall. As a result, he was seriously injured and died thereafter.

MICROFILM
MAR 25 1975

The defendants, their officers, agents and employees were negligent and the ship unseaworthy in the following respects:

1. Permitting an inexperienced, apprentice, second-class seaman to go aloft in dangerous conditions - when the vessel was rolling unduly and the sea was agitated beyond normal.
2. Failure to wait for more favorable weather conditions or to wait for a harbor where the work ordered for my husband could be safely done.
3. Failure to instruct the decedent properly and thoroughly in the work of going aloft.
4. Failure to have competent deck officers, boatswain, supervisors and co-employees.
5. Issuance by the boatswain and the mate in charge of an improvident dangerous order to the decedent.
6. Failure to promulgate and enforce rules for the safe performance of work under existing conditions.
7. Failure to furnish a safe place to work.
8. Failure to inspect and rectify working conditions before the decedent was ordered to work.
9. The Captain and other deck officers did not give the decedent proper, prompt and adequate medical treatment.

10. Failure to summon medical assistance and other aid from Yokohama or other Japanese territory for the relief of the decedent when he was injured.
 11. Not giving sufficient attention to the symptoms of the decedent so that proper treatment could be prescribed.
 12. Not having officers and seamen with knowledge and ability sufficient and suitable to their calling.
 13. Not returning to Yokohama or other port after the decedent was injured, so that he could get complete medical treatment.
 14. Failure to lessen the speed of the vessel and to take other measures to insure the safety of the decedent when he was ordered to work under unseaworthy conditions.
 15. Failure to lessen the speed of the vessel and to take other measures for the care, comfort and safety of the injured man after he had been hurt.
2. (a) It is the contention of the defendants that:
1. The causes of action under the Jones Act (46 USCA 688) are time barred by the statute of limitations.
 2. The causes of action under the Death on the High Seas Act (46 USCA 761 et seq) are time barred by the statute of limitations.
 3. The causes of action under the General Maritime Law are time barred by laches.
 4. There is no Jones Act jurisdiction over this action.

5. There is no Death on the High Seas Act jurisdiction over this action.
6. There is no United States general maritime law jurisdiction over this action.
7. The plaintiff does not have the capacity to sue.
8. The law suit is subject to the defense of forum non conveniens.
9. The plaintiff has failed to state a claim upon which relief can be granted.

It is the contention of Zim Israel Navigation Co., Ltd.

that:

10. A release was executed in its favor.
11. The M.V. DAHLIA was in all respects seaworthy.
12. Said defendant was not negligent and did not cause or contribute to any injury or damage sustained by the plaintiff.
13. Any injuries or damages sustained by the plaintiff were caused by the negligence of the decedent and/or a prior existing physical condition of the decedent.
14. Said defendant does not agree with the contentions of the plaintiff on the occurrence of the injuries and death of the decedent.

It is the contention of Zim American Israeli Shipping Co., Inc. that:

15. It never owned, operated, managed or controlled the vessel M.V. DAHLIA at any time.
16. It never employed the decedent.

2. (b) The parties stipulated the following facts:

At 1555 S.M.T. on April 19th, 1968, the plaintiff's decedent was injured during his employment on the M.V. DAHLIA.

About 0001 G.M.T. on April 21st, 1968 Captain Mendelson of the M.V. DAHLIA, radioed the U.S. Coast Guard Cutter Chautauqua, for medical advice.

At 0100 S.M.T. April 23rd, 1968, plaintiff decedent died aboard said vessel while under the care of Lt. Merrill S. Chernov M.D. of the U.S. Coast Guard Cutter Chautauqua.

On June 18th, 1973 the Surrogate's Court and for ^{in TMB} ~~for~~ the County of New York, granted letters of administration on the goods, chattels, and credits of JACINTO VINCENTE MEJIA RENTERIA, deceased, not a resident of New York County, to the Public Administrator of the County of New York. ~~RMB~~

The suit was filed on July 6th, 1971, in the U.S.D.C., SDNY by Mercedes Alvarez Renteria, as personal representative of the estate of the deceased JACINTO VINCENTE MEJIA RENTERIA, against, ZIM-ISRAEL NAVIGATION CO., ZIM ISRAELI NAVIGATION CO., ZIM ISRAEL NAVIGATION CO. LTD., ZIM LINES and AMERICAN-ISRAELI SHIPPING CO. INC., the docket number of 71 Civ. 2992

3. A. The exhibits each party now expects to offer at the trial are those identified in this order. Should any party hereafter decide to offer additional exhibits prompt notice of the fact shall be given to each other party and to the Court by serving and filing a supplemental pre-trial memorandum. The supplemental pre-trial memorandum may be in a short form statement filed with the deputy clerk for calendars unless served at trial, when it is to be filed with the trial judge. It shall set forth the reason why the exhibit was not heretofore identified. No exhibit may be offered at trial unless identified in a pre-trial memorandum except for the purpose of impeachment.

3.B. Copies of hospital records and copies of records from public agencies or units of a government may be offered into evidence if authenticated by a letter or other certificate which purports to be that of the custodian of the records who certifies that the copy is true and complete. More formal proof of the authenticity of the records is waived.

3.C. The parties agree that the following documents which were marked for identification or which were otherwise identified in this order are authentic (each party reserves the right to object to all or a portion of each document preceded by the letter "A" and each party reserves the right to object to all or a portion of each document preceded by the letter "B" on the ground that it is inadmissible under the hearsay Rule)

The following are the exhibits to be offered by the plaintiff at the time of the trial.

- AB 1. Fifty-four pages certified to be true and correct copies of the complete file of the investigation into the death of Jacinto Vicente Mejia Renteria, aboard the M.V. DAHLIA on 23rd, April, 1968; said certificate was signed on 14th January, 1975 by Mr. R.B. Helsel, Chief, General Law Division, Office of Chief Counsel, U.S. Coast Guard. These pages refer to an investigation by the U.S. Coast Guard.
- AB 2. Transcript of testimony of witness Ignacio Ortega.
- AB 3. Transcript of testimony of witness Hugo Salazar Coello.
- AB 4. Birth certificate of the decedent.
- AB 5. Birth certificate of his widow.
- AB 6. Birth certificate of their child.

- AB 7. Marriage certificate of the decedent and his widow.
- AB 8. Letter dated December 17th, 1974 from the Maritime Safety Agency, Tokyo, Japan.
- AB 9. Letter from National Insurance Institute, September 7th, 1973, Head Office, 13 Weizmann Ave. Jerusalem 91900, Israel.
- AB 10. Letter from National Insurance Institute, October 16th, 1973, Head Office, 13 Weizmann Ave. Jerusalem 91900, Israel.
- AB 11. Letter from National Insurance Institute November 20th, 1973, Head Office, 13 Weizmann Ave. Jerusalem 91900, Israel.
- AB 12. Certified copy of a 3-page autopsy report - dated April 29th, 1968-said certificate dated April 29th, 1975 by Richard Y.K. Wong, M.D. Acting Chief Medical Examiner, Honolulu, Hawaii.
- AB 13. Diagram drawn by witness Salazar Coello, at his deposition.
- AP 14. Letter of February 18th, 1975, signed by Lt. Charles T. Nixon, from U.S. Naval Station FPO San Francisco 96614 referring to a five-page attachment - copies furnished to defendants.
- AB 15. Attached appendix of three-pages I, II, III, defendants consent to admission; defendants object to IV and V.

The following are the exhibits to be introduced by the defendants.

- AB (1) Release executed by Betty Cusme de Mejia, in favor of Zim, dated the 6th of November, 1968, in the amount of \$2,400.00.
- AB (2) Voucher, signed by Betty Cusme de Mejia, acknowledging receipt of \$2,400.00 in full and final settlement.
- AB (3) Canceled check to the order of Mrs. Betty Cusme de Mejia - widow of Jacinto Vicente Mejia Renteria, dated November 29th, 1968, in the amount of \$2,400.00.
- AB (4) Report of injury - Mendelson A for identification.
- TAB
RAB* AB (5) Chief Officer's Log Book B for identification Mendelson.
- TAB
RAB* AB (6) Official Log Book abstract C for identification Mendelson.
- TAB
RAB* AB (7) Employment agreement of May 8th, 1967.
- TAB
RAB* AB (8) Payroll records from May 8th, 1967, to April 26th, 1968.
- TAB
RAB* AB (9) Sign-on physical report.
- TAB
RAB* AB (10) Transcript of testimony of Captain Mendelson.

Both parties reserve the right to introduce any other exhibits they deem advisable at the time of trial and will give each other notice of such exhibits in a supplemental pre-trial memorandum, except for exhibits to be introduced for purpose of impeachment.

4. The parties agree that the witnesses whom each party now intends to call, along with the specialty experts to

be called, are listed in this order. Should any party hereafter decide to call any additional witnesses, prompt notice of their identity shall be given to each other party and to the Court by serving and filing a supplemental pre-trial memorandum. The supplemental pre-trial memorandum may be in a short form statement filed with the deputy clerk for calendars unless served at trial, when it is to be filed with the trial judge. It shall set forth the reason why the witness was not theretofore identified. No witness may be called at trial unless identified in a pre-trial memorandum, except for those to be called for purpose of impeachment.

Witnesses for plaintiff:

Betty Cusme Renteria - widow

Ignacio Ortega - transcript of deposition

Hugo Salazar - Coello - transcript of deposition

Other crew members of the SS DAHLIA, if available

Doctor Robert Tuby, Medical Expert, expert on marine customs and usages.

Witnesses for defendants:

Captain Mendelson - of the SS DAHLIA -

transcript of examination before trial, Second Mate Nikos Pantellos, Dr. Merrill S. Chernov and a marine expert and medical expert to be identified.

5. The parties agreed to limit the number of expert witnesses as follows:

The plaintiff will call no more than one expert witness on the issues of injuries, causation, failure of proper medical treatment and death. In addition, the plaintiff will call one expert witness on marine customs and usages.

The defendants agree to call no more than one expert witness on the issues of injuries, causation, failure of proper medical treatment and death. The defendants will also call one expert witness on marine customs and usages.

6. The plaintiff further contends that:

Decedent sustained the following injuries:

Unconsciousness, pain and suffering, mental and physical anguish, semi-consciousness, delirium, loss of control over bodily movements, bleeding, bump on the head and swelling, edema-left occipital scalp, tracheostomy wound, subgaleal hemorrhage, skull fracture, subdural hematoma-right, cerebral congestion-slight, cerebral edema-moderate to marked, sub-arachnoid hemorrhage, cerebral hemorrhage and contusion, intra-cerebral hemorrhage.

CAUSE OF DEATH: Cerebral hemorrhage and contusion due to trauma.

The decedent was injured on April 19th, 1968, and died aboard the vessel on April 23, 1968. The plaintiff makes the following claims for damages:

Pain and suffering of decedent before his death, loss of nurture and guardianship of infant daughter, loss of affection and companionship, grief and sorrow to the survivors because of decedent's death, pecuniary loss, loss of work and help in household duties, loss of future increase in salary, income and fringe benefits, allowance for inflation, future pension and other fringe benefits; interest from the date of death, loss of society.

The decedent was born on August 16, 1944, and at the time of his death, on April 23, 1968, was approximately 24 years old. He had a work expectancy of forty-one years and a life expectancy of forty-six years.

The decedent's widow was born on October 15, 1948, and was approximately nineteen and one-half at the time of her husband's death. She has a life expectancy of fifty-one years.

Their daughter was born on December 24, 1965. She was about two and one-half at the decedent's death. She is entitled to support for eighteen and one-half years, until she is 21.

The couple were married on February 5, 1965.

The decedent earned approximately between \$1,500, and \$1,800 per year. The pecuniary loss to his family approximates \$900 per year.

7. The parties also agreed on the following matters:

Plaintiff at this time expects to require two trial days; the defendants at this time expect to require two days.


8. The issues to be tried are formulated by the Court (with the consent and agreement of the parties) as follows:

- 1) Are the causes of action alleged herein time barred?
- 2) Is there Jones Act, Death on the High Seas and/or United States general maritime law jurisdiction over the law suit?

- 3) Does plaintiff have the capacity to sue?
- 4) Is this law suit subject to the defense of forum non conveniens?
- 5) Is the release executed on behalf of Zim Israel Navigation Co., Ltd. validly executed and a defense to the action?
- 6) Who was the employer of the decedent?
- 7) Who owned the vessel MV DAHLIA?
- 8) Were defendants negligent as contended in paragraph 2. herein?
- 9) Was the MV DAHLIA unseaworthy as contended in paragraph 2. herein?
- 10) If the defendants were negligent as claimed, did the decedent sustain his injuries and death as a proximate result of such negligence?
- 11) If the MV DAHLIA was unseaworthy as claimed, was the unseaworthiness a proximate cause of the injuries and death of the decedent?
- 12) Was the decedent chargeable with contributory negligence as contended in paragraph 2(a) herein?
- 13) Did any prior existing physical condition cause or contribute to the injury of the decedent.
- 14) How much in damages is the plaintiff entitled to recover from the defendants because of their alleged negligence and the unseaworthiness of the S.S. DAHLIA?

Dated: New York, New York
March 13th, 1975

SO ORDERED:



U.S.D.J.
MC

CONSENTED TO:

Thomas M. Breen
Thomas M. Breen
Attorney for Plaintiff

Hill, Betts & Nash
Attorneys for Defendants

By: Robert S. Blanc
Robert S. Blanc

THOMAS I. FITZGERALD, Public Administrator, etc. v. ZIM ISRAEL
NAVIGATION CO., ET AL., 71 Civ. 2992 ELP

Plaintiff styles this motion as a request for an order imposing sanctions on defendant pursuant to Fed. R. Civ. P. 37(a) for failure to make disclosure.

Irrespective of the question of whether such relief is actually available under section (a) of Rule 37, it appears that significant circumstances have intervened in this case that arguably served to justify defendants' reluctance to proceed with discovery. Imposition of sanctions is therefore not warranted.

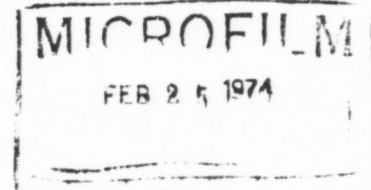
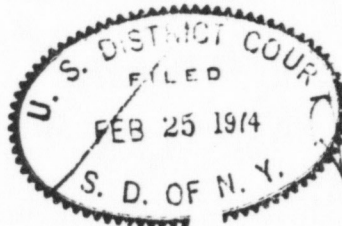
Now that the case is in a posture in which it can proceed toward trial in an orderly manner, defendants are directed to comply with plaintiff's demands for disclosure within sixty days from the date of this decision.

Since both parties have put forward substantial grounds for their positions on this motion, each party is to bear its own costs.

It is so ordered.

Dated: February 25, 1974

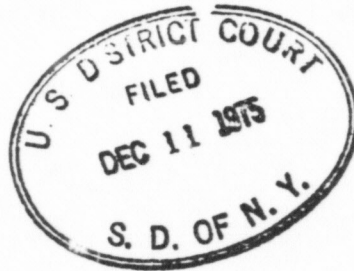

EDMUND L. PALMIERI
U. S. D. J.



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK
NEW YORK, N. Y. 10007

CHAMBERS OF
EDMUND L. PALMIERI
DISTRICT JUDGE



4 November 1974

Thomas M. Breen, Esq.
160 Broadway
N.Y.C. 10038

Robert S. Blanc, Esq.
Hill, Betts & Nash
1 World Trade Center
N.Y.C. 10048


Re: Renteira v. Zim Israel
Navigation, Co.
71 Civ. 2992

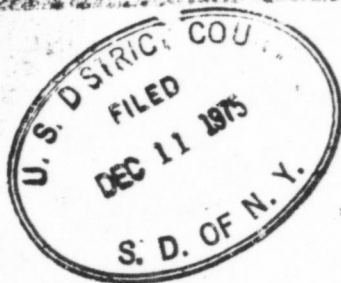
Gentlemen:

A pre-trial conference in the above captioned matter will be held on December 19 at 4 P.M.

Trial in the above captioned matter has been set down for the beginning of February, 1975.

Yours sincerely,


Lynn Hecht Schafran
Law Clerk



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MARK M. JAFFE

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GEORGE W. BETTS, JR. (1871-1959)
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TOKYO, JAPAN

TELEX: NEW YORK 222144
TOKYO J24625
ALL CABLES: HILLBETTS

December 4, 1974

Thomas M. Breen, Esq.
160 Broadway
New York, N. Y. 10038

Re: Thomas I. Fitzgerald Pub. Ad. Co. of
N.Y. as personal representative of
Jacinto Vincente Mejia Renteria vs.
Zim Israel Navigation Co., Ltd. et al

Dear Sir:

We notice from a review of our file that the following have not yet been forwarded to us:

1. The signed deposition of Ignacio Ortega taken in Miami on August 16, 1974; and
2. Answers to defendant's Interrogatories propounded October 17, 1974.

Because the date of trial is rapidly approaching we would appreciate your prompt attention in this matter.

Very truly yours,

HILL, BETTS & NASH

By

Gregory W. O'Neill
Gregory W. O'Neill

GWO'N:mf

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5.00/24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THOMAS I. FIZGERALD, Public administrator of the County of New York, State of New York, as personal representative of the estate of JACINTO VICENTE MEJIA RENTERIA, Deceased,

Plaintiff,

-against-

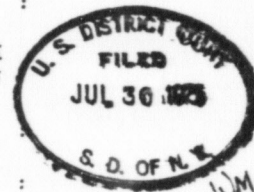
ZIM ISRAEL NAVIGATION CO., ZIM ISRAELI NAVIGATION CO., ZIM ISRAEL NAVIGATION CO., LTD., ZIM LINES and AMERICAN - ISRAELI SHIPPING CO., INC.,

Defendants.

71 Civil 2992

(ELP)

NOTICE OF
: APPEAL



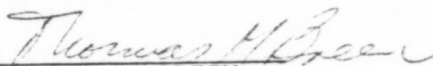
NOTICE IS HEREBY GIVEN that THOMAS L. FIZGERALD, plaintiff above named hereby appeals to the United States Court of Appeals for the Second Circuit from the final order and judgment of the Honorable Edmund Palmieri, U.S.D.J., dated July 3rd, 1975, granting judgment against the plaintiff, THOMAS L. FIZGERALD as personal representative of the estate of JACINTO VICENTE MEJIA RENTERIA, Deceased and in favor of the defendant ZIM ISRAEL NAVIGATION CO., LTD., dismissing plaintiff's action on the ground of Forum non conveniens and for lack of subject matter jurisdiction; and the plaintiff also appeals to the United States Court of Appeals for the Second Circuit from the final order and judgment of the Honorable Edmund Palmieri, U.S.D.J., dated July 3rd, 1975, granting summary judgment in favor of the defendant, ZIM-

1529

AMERICAN ISRAELI SHIPPING CO., INC., and dismissing the
plaintiff's complaint as to that defendant.

Dated: New York, New York

July 29th, 1975


THOMAS M. BREEN
Attorney for Plaintiff
Office & P.O. Address
160 Broadway
New York, New York 10038
BEekman 3-3740

TO: HILL, BETTS & NASH, ESQS.
Attorneys for Defendants
One World Trade Center
New York, New York 10048

COPY RECEIVED

JAN 15 1976

HILL, BETTS & NASH